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The journal welcomes manuscripts in political philosophy in the broad sense. Submitted articles can be interpretations of literary works, theological works, and writings on jurisprudence with an important bearing on political philosophy.

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With the present article the author concludes his examination of Moses’ career for lessons on politics, begun in his “Moses Politikos” and continued in “Moses Dikastes” (Gleicher 1999 and 2003). As was noted in the latter, the book of Deuteronomy warrants separate treatment because of its peculiar rhetorical character. But also, we may now add, because of its extraordinarily rich content.

I. THE RHETORICAL CHARACTER OF THE BOOK OF DEUTERONOMY

The fifth book of the Torah, the five Biblical books of Moses, is commonly called Deuteronomy, from the Greek deutero nomos, meaning “second law,” because in it Moses recites for a second time many of the laws that have already been stated in the preceding three books: Exodus, Leviticus, and Numbers. This title is taken from the Septuagint, the Greek translation of the Hebrew Bible undertaken in the Hellenistic Era for the benefit of the Greek-speaking Jews of Alexandria, Egypt. The book’s Hebrew title, Devarim (Words), follows the common Hebrew convention of naming several of the Biblical books after the first distinctive word of their respective texts, in this case the statement “Eileh had’varim asher diber Mosheh el-kol-Yisrael b’eiver hayardein—These are the words that Moses addressed to all Israel on the other side of the Jordan” (Deut. 1:1). (Biblical quotations are generally from Tanakh 1988. For the most part, except where common usage requires otherwise, the author’s transliterations follow the Ashkenazic rather than the Sephardic pronunciation.) An older meaning of nomos is “song.” The two meanings are connected, because in pre-literate times laws were publicly promulgated by being sung or chanted, on the assumption that oral communications are better absorbed if linked to a memorable tune. This all fits nicely with the lyric
quality of the book of Deuteronomy, which consists of speeches Moses gives as
the Israelites are about to cross the Jordan River and enter the Promised Land.
The book’s highly rhetorical style, so different from the preceding four books,
even in translation, is one of the principal bases for the documentary thesis of
multiple authorship of the Torah. (Ultimately, of course, this is a question of
faith. Surely an omnipotent God can, if He wishes, speak to human beings
through several voices and in a variety of rhetorical styles.) However that may
be, Exodus, Leviticus, and Numbers reveal Moses the man of action. Here we
see Moses the man of eloquence.

Jack Miles, formerly a professor of Biblical studies at the
University of California, describes Deuteronomy, in his provocatively titled
book of literary analysis, *God: A Biography*, as “a long, tripartite speech by
Moses, his last words before his death, … the first full-blown oratory in the
Bible, [whose] first two sections … in particular bear fair comparison with the
great speeches of Greek antiquity.” In contrast to the dialogue in the preceding
four books, “no one has spoken to the Israelites at anything like this length, in
anything like so personal and rhetorical a style about themselves, their God,
and their destiny.” He continues:

> Nothing like it had previously been written. Nothing written after
> it was not deeply affected by its rich, undulating cadences and its
> mood of soaring national pride balanced by a religiously motivated
> humility. [T]he Deuteronomist [also]… gave Moses the [emotion-
> ally resonant] character of one who has suffered much at the hands
> of the nation he has led but now sees his own sufferings as well as
> theirs bathed in the radiance of a high calling. (Miles 1995, 139)

Miles credits the Deuteronomist for so combining the previously disparate
Godly elements of creator/destroyer, personal god of the fathers/national
god of Israel, warrior/conqueror, lawgiver/ guarantor of Israel’s long life and
prosperity, as to make them seem in combination plausible, inevitable, and
thrilling. But, he notes,

> Obviously, this combination is not inevitable. . . . As Israel’s apos-
> tasies at Sinai and Peor prove, the Israelites did not always find their
> own God inevitable for them. But the Deuteronomist[’s efforts] to
> make that God seem inevitable, stunningly persuasive in the read-
> ing, have been definitive in their historical impact. . . . The God of
> Deuteronomy has remained God for Jews and Christians down to
> modern times. In the West, even atheism and agnosticism have
tended to take this God as . . . their . . . referent. When the Western
> atheist says that he does not believe in God, it is . . . Deuteronomy’s
> God whom he rejects. (Miles 1995, 141)
He also reminds that Deuteronomy offers Moses’ characterization and interpretation of God, “as distinct from a divine self-presentation in word and deed.”

Moses’ speech, following the broad outline of a treaty, begins with a review of the shared history of the two parties to the treaty, proceeds to the treaty’s terms, and ends with the blessings and curses that sanction it. It is, therefore, not per se a discussion of God at all. At each stage, however, Moses gives uniquely clear and forceful expression to one aspect or another of God’s personality… [and] brings them all into harmony with one another as never before. (Miles 1995, 139-140)

And he observes grandly, “If the various writers of the Bible were composers, the Deuteronomist would be Bach in his utter, majestic confidence” (Miles 1995, 141).

The language of Deuteronomy has also left its marks on the Jewish liturgy, the most familiar being the first paragraph of the Shema (“Hear, O Israel”) (Deut. 6:4-9), discussed below. But there are other, less obvious, examples. For instance, Deut. 4:34:

-H]as any god ventured to go and take for himself one nation from the midst of another by prodigious acts, by signs and portents, by war, by a mighty hand and an outstretched arm and awesome power, as the LORD your God did for you in Egypt before your very eyes?

A later version of this list (Deut. 26:8) is the basis for a lengthy exposition in the Passover Haggadah (see Glatzer 1989, 45-53). Or the following passage a few lines further, made familiar by its place in the daily prayer called the Aleinu (roughly, “It is incumbent on us”):

Know therefore this day and keep in mind that the LORD alone is God in heaven above and on earth below; there is no other. (Deut 4:39; Harlow 1985, 321)

One difficulty posed by Deuteronomy warrants immediate mention, the discrepancies between some of its passages and parallel passages in the earlier books. Perhaps the most significant example, discussed further below, is the wording of the Fourth Commandment:

Observe the sabbath day and keep it holy, as the LORD your God has commanded you. Six days you shall labor and do all your work, but the seventh day is a sabbath of the LORD your God; you shall not do any work—you, your son or your daughter, your male or
female slave, your ox or your ass, or any of your cattle, or the stranger in your settlements, so that your male and female slave may rest as you do. Remember that you were a slave in the land of Egypt and the LORD your God freed you from there with a mighty hand and an outstretched arm; therefore the LORD your God has commanded you to observe the sabbath day. (Deut. 5:12-15)

By contrast, the version in Exodus begins with the command, “Remember the sabbath day,” and concludes, not by mentioning the liberation from Egypt, but with the explanation:

For in six days the LORD made heaven and earth and sea, and all that is in them, and He rested on the seventh day; therefore the LORD blessed the sabbath day and hallowed it. (Exod. 20:8, 11)

The rabbinical solution to this discrepancy is the theological teaching that both statements were miraculously given simultaneously (Hertz 1981, 766). This doctrine is expressed every week in the first verse of the hymn L’kha Dodi, which ushers in the Sabbath: “‘Keep’ and ‘remember;’ both uttered as one / By our Creator, beyond comparison,” and in the kiddush, the prayer of sanctification over wine and bread, which calls the Sabbath both “a reminder of Creation” and “the first among our days of sacred assembly which recall the Exodus from Egypt” (Harlow 1985, 263, 319).

Whatever the merits or the necessity of such theological exercises, from a literary perspective a simpler solution offers itself. As we noted from Miles, Deuteronomy for the most part speaks, not in the voice of a divine and omniscient Narrator, but in that of His servant Moses. It is, we might say, Moses’ last will and testament. As is apt to be the case with documents of this kind, it emphasizes the things he especially wishes the Israelites to remember, and by which to remember him. This is most evident in his self-exonerating account of events such as the failed spy mission (Deut. 1:22 ff.; cf. Num. 13-14), but could also fit his recapitulation of the Commandments. Thus, the word “observe” emphasizes an element of activity, perhaps implicit in the alternative word “remember,” but that Moses, based on his experience with the Israelites, might think them prone to neglect. Again, nothing in Moses’ career suggests any special concern with the cosmological question of Creation, but he is virtually obsessed with assuring the centrality of the Exodus in Israel’s national consciousness. And, we might be tempted to add, his own centrality to the Exodus, had we not been authoritatively told that “Moses was a very humble man, more so than any other man on earth” (Num. 12:3). On the other hand, this description was given thirty-eight years earlier, before the spy mission, Korah’s rebellion, and the years of desert wandering (Num. 13-36). Would
these events have forced Moses to rethink his humility?

II. DEUTERONOMY’S SPECIAL AUDIENCE

Formally and in fact, the speeches in Deuteronomy are addressed to the assembled Israelite people. There is, however, a more particular audience that certain key passages seem to presuppose, a prospective Israelite monarchy. This becomes especially obvious in an anticipatory section that occurs in chapter 17, at almost the exact middle of the book:

When thou art come unto the land which the LORD thy God giveth thee, and shalt possess it, and shalt dwell therein; and shalt say: “I will set a king over me, like all the nations that are round about me”; thou shalt … set him king over thee, whom the LORD thy God shall choose; one from among thy brethren shalt thou set king over thee; thou mayest not put a foreigner over thee, who is not thy brother. … And it shall be, when he sitteth upon the throne of his kingdom, that he shall write him a copy of this law [hatorah hazos] in a book, out of that which is before the priests the Levites. And it shall be with him, and he shall read therein all the days of his life; that he may learn to fear the LORD his God, to keep all the words of this law [hatorah hazos] and these statutes, to do them; that his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left; to the end that he may prolong his days in his kingdom, he and his children, in the midst of Israel. (Deut. 7:14-15, 18-20; Hertz 1981, 823-825)

A question of translation arises immediately: To what does the phrase hatorah hazos refer? The Orthodox Movement assumes that hatorah means the Torah, with a capital “T,” that is, the entire five books of Moses as they have come down to us historically (Kahan 1988, 297; Scherman 1996, 1029). This interpretation reflects the theological doctrine that the Torah as a whole was given by God to Moses at a single stroke, an assumption that runs contrary to the theory of multiple authorship developed by the last 200 years of biblical scholarship and now generally accepted among the other branches of Judaism. On the other hand, both the Hertz Chumash, quoted above, and the Jewish Publication Society’s translation of the Tanakh (Tanakh 1988, 302) use the more neutral improper nouns “law” and “Teaching,” which leave our question unanswered. (The word “Chumash” is derivative from the Hebrew hamisha, five, and refers to the five books of Moses, also called by the Greek name “Pentateuch.” “Tanakh” is the acronymic title of the Hebrew Scriptures, derived from its three principal divisions: Torah, the books of Moses; Nevi’im, the prophets, which includes the prophetic-historical books of Joshua, Judges, Samuel, and Kings, as well as the more familiar books that bear
their supposed writers’ names—Isaiah, Jeremiah, Ezekiel, and the twelve minor prophets; and Kh’ṣuvim, the writings, such as Psalms, Proverbs, Lamentations, Esther, and Ruth.) The narrowest interpretation would be that the relevant law or teaching is that of the immediate context regarding the kingship itself:

[H]e shall not multiply horses unto himself, nor cause the people to return to Egypt, to the end that he should multiply horses. . . . Neither shall he multiply wives to himself, that his heart turn not away; neither shall he greatly multiply to himself silver and gold.
(Deut. 17:16-17)

This cautionary lesson against accumulating too much war material, women, or wealth is certainly a useful restraint to impose on any monarch. But the lesson is so brief as to render trivial the royal task of personally copying this law from an official text maintained by the levitical priests and consulting it frequently. A middle ground position, accepted by the rabbis who produced the Septuagint and perhaps also by Moses Maimonides (1135-1204), the greatest of the medieval Jewish philosophers, refers the phrase to the entire Book of Deuteronomy (Plaut 1981, 1458). The king’s assignment to copy this much text would surely not be trivial, and the text itself, as the report of Moses’ valedictory speeches, called “hatorah hazos” at Deut. 1:5, has an interpretive integrity that even critical scholarship recognizes.

Our thesis, then, is this: There is a genre of political literature, the handbook for princes, instructional works by philosophers and theologians that tell rulers how they should behave. Noteworthy examples are Xenophon’s The Education of Cyrus, St. Thomas Aquinas’ Letter on Kingship, Erasmus’ The Education of a Christian Prince, and Niccolo Machiavelli’s The Prince. The present suggestion is that Deuteronomy is another, perhaps the original, example of this type. To whatever other audiences it may speak, its special audience consists of prospective, pious Israelite kings, who are here instructed in their obligations and their craft by no less a personage than Moses, God’s greatest prophet and himself a prince (cf. Machiavelli, ch. 6).

Let us, by way of illustration, apply this premise to the book’s opening chapters. In Deut. 1:1-18, Moses recalls some events (though curiously, not the giving of the Ten Commandments) that happened soon after the departure from Egypt, when Israel was stationed at Mount Sinai, here called Horeb. Verses 19-45 deal with the episode of the ill-fated spy mission, a few months later, when it appeared, mistakenly, that they were ready to invade Canaan. And chapters 2 and 3 are about the prelude to the actual invasion and
conquest, thirty-eight years later. The first of these divisions has the densest cluster of discrete lessons.

The opening verses establish, with some precision, the place and time of Moses’ speech (Deut. 1:1-5). Rulers must promote the art of record keeping. Special emphasis is placed on the Israelites’ then recent victories over King Sihon of Heshbon and King Og of Bashan (Deut. 1:4-5), a theme that is taken up again at length in chapters 2 and 3. It is appropriate for rulers and peoples to glory in their military victories, especially those connected with the founding of their political communities.

Moses begins his speech with the assertion, “The LORD our God spoke unto us in Horeb” (Deut. 1:6). But the event to which he alludes happened a whole generation earlier. As his recollection of the spy mission episode, beginning only a dozen verses later, will make clear, the generation to whom God spoke at Mount Sinai has since then perished in the wilderness (Deut. 1:35; cf. Num. 14:20-38). Still, Moses indulges the legal fiction that the nation has a collective identity that transcends time and that makes its individual members of all generations virtual contemporaries. He reemphasizes this point a few chapters later, when he describes the giving of the Ten Commandments:

“The LORD our God made a covenant with us in Horeb. The LORD made not this covenant with our fathers, but with us, even us, who are all of us here alive this day.” (Deut. 5:2-3)

Israelite rulers must think, speak, and act in terms of the continuity of am Yisrael, the Israelite People, not regard each generation as self-invented. This first statement of the LORD’s that Moses cites names the extensive boundaries of the land the Israelites are to take, and emphasizes that “the LORD swore [it] unto your fathers, to Abraham, to Isaac, and to Jacob, to give unto them and to their seed after them” (Deut. 1:7-8). This, it seems, must be the starting point of future national agendas.

Moses next recalls his appointment of magistrates (literally “heads”—roshim) to assist him in his duties, though without mentioning his father-in-law Jethro, whose role in taking this action was so crucial in the Exodus narrative (Deut. 1:9-18; cf. Exod. 18). He emphasizes that he could not carry the burden of ruling, especially the people’s bickering, alone (Deut. 1:9, 12). Princes should be under no illusion. Rulership is a heavy responsibility, not a romp. Despite the unflattering picture he paints of the people, the process he describes of appointing magistrates who are “wise men, and under-
standing, and full of knowledge” (Deut. 1:13; Tanakh: “wise, discerning, and experienced”—hakhamim un’vonim viyduim), upon nomination by the people provides a pattern of government by consent. Indeed, the appointment process itself is first proposed by Moses and popularly approved (Deut. 1:14). And he repeats his specific charge to the judges, to judge with deliberation, righteously, impartially as between the small and the great, and without fear of any man, “for the judgment is God’s” (Deut. 1:16-17). That is, as Hertz explains, “The judge should feel that he is God’s representative, and that every judicial decision is a religious act” (Hertz 1981, 739). The final judicial appeal was to Moses, and correspondingly, in later times, would be to the king (Deut. 1:17). Presumably, a king who had read this Mosaic charge to the judges would exercise his own appellate authority in a like spirit of piety.

Of the sequel recollection of the spies episode we need only mention one detail. The Moses of Deuteronomy attributes to this disaster, rather than to the “waters of Meribah” incident thirty-eight years later, God’s anger at him, on account of which he was denied entry to the Promised Land (Deut. 1:37; cf. Num. 20:1-13). This, despite the portrayal of his own role in the spies story as quite blameless. The lesson seems to be that, as spotless as their personal behavior may be, rulers are nevertheless held accountable for their subjects’ failings. (And, we might add, vice versa, a sobering thought for democracies, especially during election years.)

III. The Ten Commandments

Deut. 5:6-18 presents the second formulation of the Ten Commandments. In basic content, and for the most part also in style, it is the same as the first formulation, given at Exod. 20:2-14. But a few discrepancies make the passage especially interesting.

The chief locus of difference is the Fourth Commandment. The Exodus version reads:

Remember the sabbath day [zakhor es-yom hashabat] and keep it holy. Six days you shall labor and do all your work, but the seventh day is a sabbath of the LORD your God: you shall not do any work—you, your son or daughter, your male or female slave, or your cattle, or the stranger who is within your settlements. For in six days the LORD made heaven and earth and sea, and all that is in them, and He rested on the seventh day; therefore the LORD blessed the sabbath day and hallowed it. (Exod. 20:8-11)

And here is the version from Deuteronomy, with the particular differences
emphasized:

Observe the sabbath day [shamor es-yom hashabat] and keep it holy, as the LORD your God has commanded you. Six days you shall labor and do all your work, but the seventh day is a sabbath of the LORD your God; you shall not do any work—you, your son or your daughter, your male or female slave, your ox or your ass, or any of your cattle, or the stranger in your settlements, so that your male and female slave may rest as you do. Remember that you were a slave in the land of Egypt and the LORD your God freed you from there with a mighty hand and an outstretched arm; therefore the LORD your God has commanded you to observe the sabbath day.

(Deut. 5:12-15)

In the Deuteronomist text, “remember” has become “observe” (or “keep,” “preserve,” “guard,” or “watch over”), it is specifically noted that this is a divine command, the general reference to cattle has become a short list that suggests certain kinds of domesticated beast, and the entire rationale in terms of the Creation has been replaced by an exhortation to give one’s slaves the same rest as oneself and a reminder of the national experience of slavery in and liberation from Egypt.

We have already referred to the mystical rabbinic explanation of the first discrepancy, according to which the Israelites miraculously heard both words, zakhor and shamor, simultaneously (Hertz 1981, 766). At the other extreme, the documentary hypothesis school of biblical scholarship would simply attribute the two passages to different sources who reflect alternative folk traditions. But would not “D,” the Deuteronomist source, already have known the “J” or the “E” text? In any event the Redactor, “R,” would have had them all, but he or they nonetheless let the discrepancy stand. We also took note of the Deuteronomist Moses’ apparent indifference to cosmological matters about the Creation and his intense interest in impressing upon the Israelites the centrality of the Exodus as the nation’s formative event.

The more focused interpretation of the Book of Deuteronomy as a handbook for prospective Israelite kings permits yet another (not mutually exclusive) perspective on the present passage. The word shamor, understood as “preserve,” “guard,” or “oversee,” fits especially well with the king’s role as steward of the nation and guardian of its religious laws and institutions. The reminder that the Sabbath is a divine command and the admonition to treat one’s servants as oneself are especially useful restraints on the kind of excessive pride that kings in particular are liable to feel. The specifying of a variety of cattle comports with the kind of wealth that kings are
apt to have. And the explanation of the Sabbath in terms of the Egyptian experience directs the king’s attention to the nation’s origins and its autonomy, instead of distracting him into less politically relevant cosmological speculations. None of these data is hard proof of an intended royal audience, but all of it seems eminently congruent with such an assumption.

This thesis also accords with the Deuteronomic Commandments’ other, less prominent, divergences from the Exodus antecedent. The phrases “as the LORD your God has commanded you” and “that you may fare well” are added to the Fifth Commandment, to honor one’s father and mother. It never hurts to remind the king that his actions have consequences, that his deeds reflect not only on his own reputation but also on that of his parents, and, conversely, that his own prosperity will be augmented by the esteem in which his dynasty is held. The phrase for “false witness” in the Ninth Commandment has changed from *eid shaker* to *eid shav’*. *Shaker* implies active, intentional fraud or deception, while *shav’* can mean a more casual emptiness or vanity of speech in addition to outright lying (BDB 1979, 1055, 996). *Shav’* is also the word used in the Third Commandment’s injunction against taking the LORD’s name in vain. Both data imply that kings must take special care in the spoken or other communicative representations that they make publicly, lest they mislead concerning both religious and civil, especially judicial, matters.

Finally, the Tenth Commandment, against covetousness, contains a few possibly significant modifications in the objects and character of forbidden desire. “Your neighbor’s house,” in Exodus the first item, is now the second, while “your neighbor’s wife” is moved from second place to the head of the list. Ordinary commoners, for whom one wife is usually quite enough, may still envy their neighbor’s material possessions, but royalty, who generally do not hurt for fine houses, may be uniquely susceptible to a roving eye for new additions to their harem. We need only recall the fateful example of King David and Uriah’s wife, Bathsheba (2 Sam. 11-12). Again, after this first item, the Deuteronomic list substitutes the verb “crave” (*tis’aveh*) for “covet” (*tah’mod*), and it adds “his field” to the proscribed objects of desire. This new verb sometimes has the specialized meaning of a desire for superfluities or dainties (cf. Num. 11:4; BDB 1979, 16; cf. 326). It may be related to a word for “boundary” (*ta’avah*), and thus, in conjunction with the word “field,” carry the particular implication of desiring someone else’s property that is defined by a boundary mark (BDB 1979, 1063). The variant language nicely anticipates another notorious case of royal misbehavior, King Ahab’s longing
for the vineyard of Naboth the Jezreelite, which he wanted for a vegetable
garden, and Queen Jezebel’s theft of this piece of land by procuring false
testimony against Naboth (1 Kings 21).

It is not every day that one gets to apologize to so notable a
person as our teacher Moses. The verbal variations that at first appeared to be
mere lapses in his memory or exercises in self-promotion have rather emerged
as appropriate and much needed warnings to a distinct and very important
audience. We may also offer an aside on a textual detail concerning a passage
traditionally read on the Sabbath preceding Purim, the holiday that recalls the
Persian Jews’ rescue, as described in the book of Esther, from the genocidal plan
of Haman, a descendant of the Amalekite nation. The Deuteronomic passage
calls upon the addressee to “blot out the memory of Amalek from under heav-
en,” while the parallel text from Exodus says that the LORD will do so (Deut.
25:19; Exod. 17:14). As with the two versions of the Ten Commandments, this
discrepancy can perhaps best be understood by assuming that the text in
Deuteronomy is directed especially to future Israelite rulers, whose position
will make them the peculiar instruments for effecting the divine will. This at
least seems to be how Queen Esther and her cousin and guardian Mordecai see
it (Esther 3-9; see also Gleicher 2001).

IV. THE TEN COMMANDMENTS, AGAIN

Whether we view the book of Deuteronomy with the
Orthodox, as anticipatory prophecy, or in the spirit of critical scholarship, as
historical review, the Ten Commandments section contains valuable lessons
for the Israelites’ political condition. In the first of the three lectures that com-
prise Professor David Noel Freedman’s short but fascinating book, The Unity
of the Hebrew Bible, the author argues that the Bible’s long, sometimes convo-
luted narrative of the history of the ancient Israelites, from the book of Exodus
through the book of Kings, contains a coherent unifying strand: the nation’s
progressive decline and dissolution for failure to observe these
Commandments. Each book, he notes, includes an important instance of the
violation of one or two of them, more or less in their proper order (Freedman
1993, 18-19). (Freedman’s analysis applies equally to the Exodus and the
Deuteronomic versions.)

The First Commandment (or more properly, Statement)
affirms “I the LORD am your God. … You shall have no other gods beside Me”
(Deut. 5:6-7). (Concerning our placement of the word “am,” see the next sec-
tion of this essay.) It forbids apostasy, or desertion of the LORD, the special,
unique god of Israel. The Second forbids idolatry, the making and worship-
ing of sculptured images of anything in the heavens or on or below the earth (Deut. 5:8-10). While the two kinds of sin are related, they are not identical. It would be possible to worship other gods without making images, for example by praying directly to the sun or the moon or an especially important river. Indeed, to do so may be quite natural, and a nearby passage even suggests that this is an entirely proper practice for the Gentiles:

And when you look up to the sky and behold the sun and the moon and the stars, the whole heavenly host, you must not be lured into bowing down to them or serving them. These the LORD your God allotted to other peoples everywhere under heaven; but you the LORD took and brought out of Egypt, … to be His very own people. (Deut. 4:19-20)

Conversely, if the second sentence of the First Commandment is translated as “You shall have no other gods before me [l’fanai],” it would be logically possible even to worship idols while yet observing its terms, as long as the LORD God enjoyed primacy. However this may be, the two taken together constitute the Israelites as, for practical purposes, a monotheistic nation, and both commands are violated together in the incident of the Golden Calf, a story that is familiar enough not to need repeating (Exod. 32).

The Third Commandment enjoins against “swear[ing] falsely by the name of the LORD your God,” or, in the more old fashioned translation, “tak[ing] the name of the LORD thy God in vain” (Deut. 5:11). This is violated in the next book of the Torah, Leviticus, in the story of an Israelite-Egyptian half-breed who gets into a fight with an Israelite man and “pronounced the Name in blasphemy.” The LORD orders that the man be stoned to death and that execution be publicly proclaimed as the standard punishment for the crime of blasphemy (Lev. 24:10-23).

The Fourth Commandment, to “[r]emember” or “[o]bserve” the Sabbath (Exod. 20:8; Deut. 5:12), is violated in the fourth book, Numbers, in the following story:

Once, when the Israelites were in the wilderness, they came upon a man gathering wood on the sabbath day. Those who found him as he was gathering wood brought him before Moses, Aaron, and the whole community. He was placed in custody, for it had not been specified what should be done to him. Then the LORD said to Moses, “The man shall be put to death: the whole community shall pelt him with stones outside the camp.” So the whole community took him outside the camp and stoned him to death—as the LORD
had commanded Moses. (Num. 15:32-36)

The book of Deuteronomy anticipates the violation of the Fifth Commandment, to “[h]onor your father and your mother” (Deut. 5:16), in the following rule:

If a man has a wayward and defiant son, who does not heed his father or mother and does not obey them even after they discipline him, his father and mother shall take hold of him and bring him out to the elders of his town at the public place of his community. They shall say to the elders of his town, “This son of ours is disloyal and defiant; he does not heed us. He is a glutton and a drunkard.” Thereupon the men of his town shall stone him to death. Thus you will sweep out evil from your midst: all Israel will hear and be afraid. (Deut. 21:18-21)

The next three Commandments, prohibiting murder, adultery, and theft (Deut. 5:17), are illustrated in the next three books—Joshua, Judges, and Samuel—but in a different order. The example of stealing is given in the book of Joshua, then murder and adultery, respectively, in Judges and Samuel. Freedman observes that the order of these three Commandments varies in a number of ancient sources—the Septuagint version of Exodus 20, the Nash Papyrus, Philo, and the New Testament—as well as in Jeremiah’s sermon in the Temple courtyard (Jer. 7:8-11) and the book of the prophet Hosea (4:2) (Freedman 1993, 26-27). Apparently, there was some flexibility in the way these three were considered in the ancient world, which warranted the compiler of the Hebrew Scriptures to present the relevant examples in an alternative sequence.

The example of stealing in the book of Joshua concerns an Israeliite warrior named Achan, who keeps for himself some of the treasure from Jericho that was supposed to be destroyed. Because of this dereliction, the LORD becomes incensed with the Israelites and they lose their next battle. When Achan is implicated as the culprit, by the casting of lots, he confesses his crime, and he and his family are killed and all his belongings destroyed to expiate his misdeed (Josh. 7).

The murder illustration, which concludes the book of Judges, is a very nasty story about a Levite whose estranged concubine is brutally raped and killed by the men of Benjamin while the couple are traveling through Benjaminites territory. This dreadful crime, which contains echoes of the story of Lot’s family in the city of Sodom (Judges 19:22-25; Gen. 19:4-11), provokes the other tribes to wage civil war against the Benjaminites, and nearly to
The illustrative case of adultery is that of King David and Bathsheba, wife of David’s army captain Uriah the Hittite (2 Sam. 11-12). The story is too famous to need repeating, except to note that certain rabbinical sources have tried to obscure its significance, and to launder David’s reputation, by denying that it presents a case of adultery. The supposed proof is that David did not suffer the death penalty that the Law prescribes for adulterers (Lev. 20:10; Deut. 22:22). Further, it is said, soldiers like Uriah who were sent to the front first went through the formality of divorcing their wives, so if they got lost in battle and it could not be determined whether they were still alive or dead the women would be free to remarry. There is something to be said for this policy, and it may reflect the actual practice of a later era. But with due respect to the rabbis, it cannot be reconciled with the text’s repeated references to Bathsheba as Uriah’s wife, with David’s attempts to get Uriah to go home to her, and especially with the prophet Nathan’s condemnation of David, which builds entirely on the assumption that he has taken another man’s wife. And while the text is not free to have David die for his sin at this time, since in fact he reigned for another twenty years, it does make as clear as possible that he deserves to and that he is spared this fate only through divine grace (2 Sam. 12:13-14). Moreover, he does not go unpunished. His entire subsequent career can be understood as a succession of punishments that specifically mirror the details of this crime (see Gleicher 1998, 871-83).

The final example, showing a violation of the Ninth Commandment, against bearing false witness (Deut. 5:17), is the story of how Queen Jezebel suborns perjury against Naboth of Jezreel, to get him executed so her husband King Ahab can confiscate his land (1 Kings 21). Like the three preceding cases, this event is a national scandal which has major public consequences, in this instance ultimately a coup d’etat and a change of dynasty in the Northern Kingdom of Israel (2 Kings 9).

Freedman offers no particular example of a breach of the Tenth Commandment, against coveting or craving others’ belongings (Deut. 5:18). As a rule that speaks to intentions rather than actions, it presents special difficulties of documenting in isolation. Besides, wanting what belongs to others is obviously implicit in some of the preceding examples (Freedman 1993, 34-35).

We should also note that in every case that has been given the particular violation is either punished with execution or brings on wide-scale
bloodletting. The general point seems to be that this brief code of religious and moral conduct, the Ten Commandments, is central to the well being of this, and perhaps any, political community, and that the violation of its terms is fraught with the prospect, not just of individual punishment, but of national calamity.

V. “Hear, O Israel!”

In addition to the Ten Commandments, the early part of the Deuteronomic Moses’ speech includes one of the most familiar, and rhetorically memorable, parts of the Jewish daily liturgy, the first paragraph of the formula known as the Shema:

Hear, O Israel! The LORD is our God, the LORD alone. You shall love the LORD your God with all your heart and with all your soul and with all your might. Take to heart these instructions with which I charge you this day. Impress them upon your children. Recite them when you stay at home and when you are away, when you lie down and when you get up. Bind them as a sign on your hand and let them serve as a symbol on your forehead, inscribe them on the doorposts of your house and on your gates. (Deut. 6:4-9)

The perhaps startling version of the statement following the opening exhortation, “The LORD is our God, the LORD alone,” is taken from the JPS Tanakh (Tanakh 1988, 284). A more conventional rendering is “The LORD our God, the LORD is One” (see, e.g., Hertz 1981, 769). Now this is a distinction that really makes a difference. The usual version is a theological proposition about the Divine Being: The LORD our God is singular, unitary, integral, a simple Substance (to use a technical philosophical term), not multiple. It is a statement that draws a sharp, probably deliberate, contrast to the Christian mystery of a single God consisting of three Persons: the Father, the Son, and the Holy Spirit. The JPS version, on the other hand, “The LORD is our God, the LORD alone,” is less a statement about God’s nature than about His status for the Israelite people: The LORD only, from among the pantheon of available gods, is ours. It is more an assertion about us than about Him. Other, false gods, may even be the appropriate objects of worship for other nations, as we noted above in our comments on the First Commandment (see Deut. 4:19-20). In its insistence on the Israelites’ exclusive worship of this God, this reading implicitly concedes that the temptation to worship the heavenly bodies may be natural and rational (as distinguished from the worship of man-made idols, which is always simply foolish [see, e.g., Is. 44:9-20]).

Yet a third rendition, made possible by the absence in Hebrew
of a distinct word for the present tense of the verb “to be,” is this: “The LORD [is] our God, the LORD is alone.” Historically, this makes more sense than the anti-Trinitarian reading that distinguishes Judaism from Christianity, a system of thought that the authors of the Hebrew Scriptures did not know. But they were well acquainted with pagan systems that posited primordial divine couples. Thus, unlike Osiris or Baal or Zeus or Wotan, this mostly male God has no corresponding female divine consort. Instead, He has some occasional feminine attributes, such as compassion, that temper and partially offset His much more frequently emphasized jealousy and proneness to anger (e.g., Deut. 4:29-31; cf. 4:21-28; see also Is. 66:13). That is, He is not one-dimensional.

What else it means to be divinely alone we catch a glimpse of in the book of Exodus, at the time of the ninth plague, the plague of darkness, a darkness so thick that “People could not see one another, and for three days no one could get up from where he was” (Exod. 10:23). Pharaoh, who is a god to his people, and perhaps in his own estimation as well, finds this divine solitude unbearable and, for neither the first nor the last time, considers yielding to Moses’ demand to let the captive Israelites go. The implication is that, whatever other adjectives we may apply to this radically solitary Deity, the LORD, God of Israel, “happy” might not be one of them.

Of course, there is no necessary contradiction among these different readings. It may well be that the God whom the Israelites are commanded to worship exclusively is also emphatically One and solitary. The point is that the familiar formula’s meaning is supremely ambiguous.

Near the end of this paragraph is the injunction to “Bind [these words] as a sign on your hand and let them serve as a symbol on your forehead [alt.: as frontlets between your eyes]”—Uk’shartam l’os al-yadekha v’hayu l’totafos bein einekha (Deut. 6:8). While it is possible to see in this passage an anticipatory reference to the laying on of tefilin (phylacteries, small leather boxes containing this formula which are attached to the arm and forehead with leather straps during the daily morning prayer), we should here remind ourselves of Alexis de Tocqueville’s caution to beware of confusing the familiar with the necessary. The passage also says, “And these words which I command you today shall be upon your heart—V’hayu had’varim ha’eileh ash er anokhi m’tzav’kha hayom al-l’vavekha” (Deut. 6:6). Surely we are not literally supposed to cut open our chests and inscribe certain words on our internal organs! Rather, both passages should be understood metaphorically to mean that a certain teaching should be integral to our emotions (the heart), our actions (the hand), and our way of perceiving the world (between our...
eyes). This understanding is of a piece with the surrounding verses, which pre-
scribe that we impress “these words” upon our children, that they be part of
our lives everywhere (at home and on the road), at all times (when lying down
and when arising), and in both our private and our public capacities (the posts
of our doors and our gates, that is, the entry ways to our houses and our cities)
(Deut. 6:7, 9). “These words” are to be ubiquitous in our lives.

All right, but which words? The entire Torah, as the
Orthodox would have it? Or all the words “that I [Moses] command you
today” (Deut. 6:6), that is, the entire long speech in Deuteronomy of which this
paragraph is a part? Or the particular immediately preceding words? Not just
“Sh’ma Yisrael Adonai eloheinu Adonai el’jad,” but also the very next, interven-
ing, sentence: “V’ahavta es-Adonai elohekha b’khol l’vav’kha uv’khol naf’sh’kha
uv’khol m’odekha—You shall love the LORD your God with all your heart and
with all your soul and with all your might” (Deut. 6:5). (It may be worth recall-
ing that Jesus, when questioned about his Jewish credentials, calls this sentence
“the first and great commandment” [Matt. 22:38].) Why make so much of this
command to love the LORD, and to do so with a total effort, and to remind
ourselves of it constantly, as our teacher Moses exhorts? Because to love Him,
not just to acknowledge Him and to exhibit gratitude for favors rendered,
requires a great effort. Not just because we are surrounded by temptations to
love other persons and things, some of which may be quite deserving, but also
because (to state it bluntly), just as the LORD, our one and only God, does not
come across as conspicuously happy, neither does He come across, in His
words and deeds, as especially lovable. Perhaps this is why, in the Ten
Commandments, we are directed to “honor” (or “glorify”—kaveid) our
parents, whom in most cases we will love as a matter of course, but of the
LORD, whose supreme power summons forth honor or glory, the text of the
Second Commandment troubles to describe Him as “showing kindness to the
thousandth generation of those who love Me and keep My commandments”
(Deut. 5:16, 10).

VI. “NOT BY BREAD ALONE”

A yet more familiar expression, “Man does not live by bread
alone,” comes from Deut. 8:3. It is a rhetorically resonant piece of common
wisdom that inspires several different readings.

Here is the Jewish Publication Society’s translation. Moses,
recalling God’s treatment of the Israelites during the forty years of wandering
in the wilderness, says:
He subjected you to the hardship of hunger and then gave you manna to eat, which neither you nor your fathers had ever known, in order to teach you that man does not live on bread alone, but that man may live on anything that the LORD decrees.

The contrast that is drawn seems to be between bread, as conventional, civilized food, and other kinds of edibles that we might not ordinarily even think of as food, especially under conditions of hardship and austerity. (Imagine, instead of the mysterious manna, grass or tree bark.) That is, with faith in the LORD and some resourcefulness, we can learn to get by somehow.

Hertz provides a more literal, albeit archaic sounding translation:

> And He afflicted thee, and suffered thee to hunger, and fed thee with manna, which thou knewest not, neither did thy fathers know; that He might make thee know that man doth not live by bread only, but by every thing that proceedeth out of the mouth of the LORD doth man live. [‘ɪ̂mān hodi’akha ki lo al-halehemi lvado yih’yeh ha’adam ki al-kol-motza pi-Adonai yih’yeh ha’adam].

He takes this metaphoric expression in a spiritual direction that is closer to the popular saying:

> Physical food is not the only thing that ensures man’s existence. Apart from the normal sustenance, there are Divine forces which sustain man in his progress through life. The words in the Text are of wider application than their reference to the manna. They teach that man has a soul as well as a body, and the needs of the spiritual life should not be neglected. This truth is of especial importance in an age when, in so many countries, men are passionately declaring that man can live by bread alone, and that he will. (Hertz 1981, 782)

The editors of the Reform Movement’s annotated volume of the JPS text say of this popular understanding, “The full text hardly allows for this interpretation, though what it means precisely may be in some doubt” (Plaut 1981, 1390). They offer the following comment on the passage as a whole:

> Moses hopes that Israel will come to understand the munificence of God and the generous protection He has afforded His children and will appreciate that their good fortune is due primarily to Him and not to their own power. The forty long years they spent in the desert were a necessary education for them, so that they might learn that human dependence on God must be total. … Thus it is not only Israel’s actions that are important, but also its state of mind, its
Thus, they explain, their translation of the phrase *al-kol-motza pi-Adonai* renders the idiom properly as “anything that the Lord decrees,” that is, God’s word and will are the cause of every material thing, just as the world itself came into being by His word. The process of creation was dependent on God’s word (Gen. 1), and so is Israel, whom He has fashioned. (Plaut 1981, 1390, emphasis added)

So, the immediate verse refers to material needs, and the larger passage teaches the spiritual lesson of dependence and humility.

The Orthodox Stone edition of the *Chumash*, while rendering the closing phrase with the same ambiguity as Hertz, “by everything that emanates from the mouth of God,” understands it in the same material sense as JPS, as referring to edibles. It draws no particular attention to the familiar saying, but instead focuses on the beginning of the verse:

> God afflicted you with the hardship of travel and let you hunger by not affording you extraneous pleasures (*Ibn Ezra*). Even the miraculous manna was a test for the people, because they had no prior experience with anything like it, and they did not know whether human beings could subsist for long on such food (*Ramban*). (Scherman 1996, 983)

It calls attention to the miraculous character of the next verse: “Your garment did not wear out upon you and your feet did not swell, these forty years.” And it says of the passage as a whole:

> The forty-year experience in the barren Wilderness proved that God supplies all the needs of those who follow Him (*Ramban*). (Scherman 1996, 683)

Again, the needs are material, but the spiritual lesson here is dependence and confidence. Not surprisingly for an Orthodox edition, it also notes, relative to the phrase *kol-hamitzvah* (“The entire commandment”) in verse 1:

> Moses stressed that no Jew could pick and choose among the commandments of the Torah. The blessings promised by God were contingent on Israel’s acceptance of the entire Torah, as if all of it, in its entirety, is a single, integrated command. (Scherman 1996, 682-83)

The same could be said of the phrase *al-kol-motza pi-Adonai* in the verse we are examining. (Does this edition here translate the tetragrammaton as “God”
rather than “HASHEM” in order to remain on the right side of the dogma that the former refers to the Deity in the aspect of Power and the latter in that of Mercy? (Rabbi Avraham Ibn Ezra [1089–1164] = “Bible commentator. … Composed classic commentary on entire Tanach; famous for its grammatical and linguistic analysis.” Ramban = “Acronym for R’ Moshe ben Nachman [“Nachmanides”] [1194–1270] of Gerona, Spain, one of the leading Torah scholars of the Middle Ages.” Scherman 1996, 1298, 1301. “HASHEM” [the Name] is the circumlocution used by the pious for the tetragrammaton YHWH [in other editions rendered as “LORD”] in order to avoid casual blasphemy.)

The vehicle by which “Man does not live by bread alone” has become popularized is a story from the life of Jesus (which may explain why the Stone Chumash is so strangely silent about this neat Mosaic turn of phrase):

Then was Jesus led up of the spirit into the wilderness to be tempted of the devil. And when he had fasted forty days and forty nights, he was afterward an hungred. And when the tempter came to him, he said, If thou be the Son of God, command that these stones be made bread. But he answered and said, It is written, Man shall not live by bread alone, but by every word that proceedeth out of the mouth of God. (Matt. 4:1-4)

This is an essentially spiritual, non-materialist reading of Deuteronomy. The alternative to bread is not other food. Rather “bread” has become a synecdoche for food as such, and the alternative to it, “every word [or saying]” (pantirhemati in Greek, the original language of the Christian Testament), is nourishment of the soul. (Rhema, from which we derive “rhetoric,” does not have the rationalist implications of logos, the other common Greek term for “word.” Jesus’ statement is thus closer in meaning to its Deuteronomic source than to, say, Plato—a discovery which should occasion no surprise.) On the other hand, this reading is not radically ascetic. He does not say, “Man does not live by bread, period!”

We may thus understand Hertz’s aforementioned comment, which enunciates a view similar to that of Jesus, as an attempt, not only to place modern Judaism in opposition to the crude materialist doctrines of the early twentieth century, most notably Marxism, to which so many Jews have been drawn. (The first edition of Hertz was published in 1936.) It also seeks, even if only implicitly, to align modern Judaism with mainstream Christianity, and against a materialist tendency sometimes observable in Jewish Orthodoxy and
endorsed by a Reform interpretation of at least this particular passage. Like politics, textual interpretation makes for some interesting alliances.

VII. THE MONARCHY, AGAIN

Perhaps more than anywhere else in the Torah, the central passage of the book of Deuteronomy, concerning the office of king, which we quoted earlier, deals with what one can readily identify as issues of constitutional law, that is, the law concerning governing offices and institutions. Here it is again, this time in the JPS translation:

If, after you have entered the land that the LORD your God has assigned to you, and taken possession of it and settled in it, you decide, “I will set a king over me, as do all the nations about me,” you shall be free to set a king over yourself, one chosen by the LORD your God. Be sure to set as king over yourself one of your own people; you must not set a foreigner over you, one who is not your kinsman. Moreover, he shall not keep many horses or send people back to Egypt to add to his horses, since the LORD has warned you, “You must not go back that way again.” And he shall not have many wives, lest his heart go astray; nor shall he amass silver and gold to excess.

When he is seated on his royal throne, he shall have a copy of this Teaching written for him on a scroll by the levitical priests. Let it remain with him and let him read in it all his life, so that he may learn to revere the LORD his God, to observe faithfully every word of this Teaching as well as these laws. Thus he will not act haughtily toward his fellows or deviate from the Instruction to the right or to the left, to the end that he and his descendants may reign long in the midst of Israel. (17:14-20)

Unlike the prophet Samuel, who regarded the institution of monarchy as a betrayal of God (1 Sam. 8:4-18; 12:6-25), on the one hand, or the rabbinical position that to request a king was itself a commandment (Scherman 1996, 1028, citing Sanhedrin 20b), on the other, the Deuteronomic text is non-committal. Setting up a king is not required, but it is permitted. Moreover, it is permitted even for a motive that is not of the highest order, the desire or felt need to be like the other nations. There is an element of political necessity and sound reason in this motive. To be like the other nations, especially the neighboring ones, means, among other things, not to place oneself at a disadvantage to them militarily. Monarchy, under whatever name, provides the benefit of unified command in time of war, a benefit that any nation can forgo or compromise only at its peril. Of course, being like other nations can also mean the desire to compete with them with respect to the splendor and
pageantry of a royal court, but even this may be justified insofar as prestige is a form of power that creates or enhances security by commanding attention and respect (cf. Hobbes, *Leviathan*, ch. 19, 10).

The passage, understandably, says nothing about the king’s positive powers. If the measure of the institution is the surrounding kingdoms, then we may suppose that the starting assumption is absolute power, subject only to such limitations as are specifically imposed. Thus, the remainder of the passage spells out three such limitations:

1. Israel’s king must be an Israelite, not a foreigner. The temptation to “bring in an outsider” can be appreciated from the common practice of businesses and educational institutions, especially those that are riven by faction, in which anyone recruited from within is apt to begin his work with half the organization already arrayed against him. In the case of a nation, if the outsider happens already to be a successful ruler, he brings in with him a proven track record of performance. Unfortunately, he is also apt to bring in a foreign elite, foreign customs, and foreign religious worship. For Israel, a community constituted by its Sacred Law and Divine Covenant, this is simply unacceptable. The text never lets the reader stray from this concern, interspersing the preceding passages on magistracies and judicial procedures with prohibitions against erecting pagan symbols, offering defective sacrifices, and worshiping other gods (Deut. 16:18-17:13). So, whatever the risks of factionalism and inexperience, the Israelites’ king must be one of their own.

2. His wealth is to be limited. It is assumed that kings will enjoy some luxury, but moderation must be observed with respect to the most obvious manifestations of great wealth: gold and silver, women, and horses. The first, gold and silver, excites envy. The second, women, is apt to introduce improper influence into the royal court, especially if the royal harem includes foreign wives. And the third, large stables of horses, is an instrument of warfare that may tempt to policies of external adventurism and internal oppression. In particular, insofar as Egypt is apparently the major breeding ground for horses in the region, the stocking of large stables might incline an Israelite king to subordinate himself to his Egyptian patron. The prospective Israelite monarch who seems most conspicuously to run afoul all of these restrictions is the generally praised King Solomon (1 Kings 3:1; 10:14-11:13).

3. He is to be a student of the Sacred Law, or at least so much of it as is meant by “this Teaching.” The Orthodox translate this verse as follows: “It shall be that when he sits on the throne of his kingdom, he shall write
for himself two copies of this Torah [v’khasav lo es-mishnei hatorah hazos] in a book, from before the Kohanim, the Levites” (Deut. 17:18). That is, the king must transcribe personally two copies of the entire Torah, unless he happened to inherit one copy from his father (Scherman 1996, 1029). Hertz disputes this interpretation, pointing out that mishnei hatorah hazos means literally “a repetition of this law,” and suggests that it need not even refer to the entire Book of Deuteronomy (Hertz 1981, 824). However this may be, the passage’s essential meaning is clearly that the lifelong practice of reading and observing a body of Sacred Law will teach the king humility and restrain him from oppressive behavior.

The surrounding passages too posit a number of institutional and procedural restraints on the exercise of political power. Whether the Israelites get a king or not, they must appoint magistrates and officials (alt.: judges and officers—shoftim v’shotrim) to govern the people with justice (Deut. 16:18-20). The existence of “levitical priests” is presupposed, and if an especially baffling case arises, the priests are to supplement the regular magistrates on a special court of inquiry whose verdicts are described as emphatically authoritative (Deut. 17:8-13). The testimony of two or more witnesses is required to sustain a death penalty verdict (Deut. 17:6). Interestingly, after the passage dealing with establishment of a king, this evidentiary rule is expanded to cover “any guilt or blame for any offense that may be committed” (Deut. 19:15). Does the existence of a royal court multiply the opportunity and the motive for the kind of malicious accusations that make the testimony of a single witness insufficient? Also, the extraordinary office of prophet is introduced, perhaps as an additional safeguard in case the regular assortment of judges, officials, and priests all become corrupted by subservience to a centralized political power (Deut. 18:15-22).

We tend to think of “checks and balances” as a characteristically modern political invention (cf. The Federalist, No. 9). Although the Deuteronomic text does not presuppose our familiar tripartite functional separation of powers into legislative, executive, and judicial branches of government, it does reveal a keen awareness of both the appeal and the risks of concentrating political power, and considerable ingenuity in devising methods to mitigate the danger.

VIII. LAWS AND NARRATIVES

However else we may describe the Torah, it is emphatically a legal code, and nowhere is the profusion of laws so thick as in some of the later
chapters of Deuteronomy. If not quite a point of religious dogma, then by long established rabbinical tradition, there are said to be 613 Torahic commandments. One Orthodox compendium, *The Taryag Mitzvos* lists seventy-four of them (12% of the total number, and more than from any other weekly portion) in the Sabbath reading that consists of Deut.21:10-25:19. (*Mitzvah* [plural *mitzvos* or *mitzvot*) is the word for commandment, though in colloquial speech it can also mean “good deed.” *Taryag* is a contrived word that expresses the sum of the numerical values of its consonants, 613. Rabbinical sources differ on just which passages to count among the total. Many relate to ceremonial matters, especially concerning the intricacies of animal sacrifice, which are now considered in suspense until the rebuilding of the Temple.) Except for the concluding passage, which calls for the annihilation of the Amalekites, the focus is social rather than political, that is, these *mitzvot* seem to be addressed to the Israelites in general rather than to their rulers especially, and they cover a wide variety of topics. Amid such an avalanche of rules, a common thread is apt to be elusive. But we note that nine of them, scattered through this segment of the text, hark back to incidents in the Genesis narrative.

1. If a man has two wives, one loved and the other unloved, and both the loved and the unloved have borne him sons, but the first-born is the son of the unloved one—when he wills his property to his sons, he may not treat as first-born the son of the loved one in disregard of the son of the unloved one who is older. Instead, he must accept the first-born, the son of the unloved one, and allot to him a double portion of all he possesses; since he is the first fruit of his vigor, the birthright is his due. (Deut. 21:15-17)

This passage reminds us of the favoritism shown by the Patriarch Jacob toward Joseph, the son of his preferred wife Rachel. In particular, when nearing death, Jacob “adopts” Joseph’s sons as his own and allots Joseph himself the double portion customarily reserved for the first-born, in effect bequeathing this branch of the family a quadruple share (Gen. 33:1-2; 37:3-4; 48:3-7, 22).

2. You shall not wear cloth combining wool and linen. (Deut. 22:11)

The rule of *shaatnez* (“mixed stuff”) has been proverbially described as the quintessential *hok*, a commandment for which there is no discernable reason and which one simply obeys because it is commanded. But the word *shaatnez* is probably of Egyptian origin (BDB 1979, 1043), and may echo the verse in which Pharaoh, having named Joseph viceroy of Egypt, “remov[ed] the signet ring from his hand [and put] it on Joseph’s hand; and he had him dressed in robes of fine linen, and put a gold chain about his neck” (Gen. 41:42). So Joseph, the son of a herdsman, whose natural garb is wool, dons the fine linen
apparel of Egyptian nobility, and, by mixing his cloth, mixes or obscures, perhaps even from himself, his Israelite identity.

3. In the case of a virgin who is engaged to a man—if a man comes upon her in town and lies with her, you shall take the two of them out to the gate of that town and stone them to death: the girl because she did not cry for help in the town, and the man because he violated another man’s wife…. But if the man comes upon the engaged girl in the open country, and the man lies with her by force, only the man who lay with her shall die…. He came upon her in the open; though the engaged girl cried for help, there was no one to save her. (Deut. 22:23-27)

Although she is not said to be engaged at the time, so the analogy is not exact, Jacob’s daughter Dinah “[goes] out to visit the daughters of the land” of Shechem, and is abducted by the town’s prince, whose name is also Shechem. The language of the verse suggests, but does not quite compel, the conclusion that he rapes her: “[H]e took her, and lay with her, and caused her pain—vayikah osah vayishkav osah vay’aneha.” Emphasized in several of the sequel verses is the fact that Dinah is within the town, in contrast to her brothers who come in from the field (Gen. 34:1-2, 26; cf. 34:5, 7, 20, 24). While the story, which culminates in the massacre of the Shechemites by two of Dinah’s brothers, reports nothing about her state of mind or preferences in the matter, it will, we hope, not sound hopelessly old fashioned to suggest that by going out among the daughters of the land she at least put herself in harm’s way.

4. No man shall marry his father’s former wife, so as to remove his father’s garment. (Deut. 23:1)

At Gen. 35:22, it is reported that “[w]hile Israel stayed in [Midgal-eder, near the place where Rachel died and was buried], Reuben went and lay with Bilhah, his father’s concubine; and Israel found out.” Again, the analogy is not exact. Jacob has not divorced Bilhah and is not dead, so she is not quite his “former wife.” But the point seems to be that he is so debilitated by grief over Rachel’s passing that Reuben, his first-born son, feels free to act as though Jacob were already dead by helping himself to his inheritance (cf. 2 Sam. 16:20-22).

5. No Israelite woman shall be a cult prostitute, nor shall any Israelite man be a cult prostitute. You shall not bring the fee of a whore or the pay of a dog [i.e., a male cult prostitute] into the house of the LORD your God in fulfillment of any vow, for both are abhorrent to the LORD your God. (Deut. 23:18-19)

Gen. 38 tells the scandalous story of Judah and his daughter-in-law Tamar. At one point in the story, Tamar, who has been denied a son by
the untimely death of her husband, disguises herself as a harlot, has sexual relations with Judah, and becomes pregnant by him. There is some haggling that occurs over her fee, and he leaves his seal, cord, and staff as a pledge. When he sends a friend to her with the agreed upon payment, the friend, perhaps to sound more respectable, asks the people of the place concerning the whereabouts of the “cult prostitute” (Gen. 38:12-26).

6. A man takes a wife and possesses her. She fails to please him because he finds something obnoxious about her, and he writes her a bill of divorcement, hands it to her, and sends her away from his house; she leaves his household and becomes the wife of another man; then this latter man rejects her, writes her a bill of divorcement, hands it to her, and sends her away from his house; or the man who married her last dies. Then the first husband who divorced her shall not take her to wife again, since she has been defiled—for that would be abhorrent to the LORD. You must not bring sin upon the land that the LORD your God is giving you as a heritage. (Deut. 24:1-4)

This rule against renovating a past marriage (the Elizabeth Taylor Rule, if you will) basically says that Husband Number 1 may not be remarried as Husband Number 3. It recalls the peculiar episodes in the Abraham narrative in which the Patriarch, fearful that first the Egyptians and later the Philistines will kill him in order to steal his wife Sarah, attempts to pass her off as his sister, and she is taken into the respective harems of Pharaoh and Abimelech the king of Gerar. In both instances Abraham profits by the venture, acquiring livestock, slaves, and money. Both times the host land is temporarily afflicted, Egypt by unspecified mighty plagues, the royal household of Gerar by impotence and sterility (Gen. 12:10-20; 20).

7. If a man is found to have kidnapped a fellow Israelite, enslaving him or selling him, that kidnapper shall die; thus you will sweep out evil from your midst. (Deut. 24:7)

The case of Joseph’s brothers so readily comes to mind as to need no comment (Gen. 37:18-28).

8. Parents shall not be put to death for children, nor children be put to death for parents: a person shall be put to death only for his own crime. (Deut. 24:16)

When Jacob’s household is suffering from the general famine in the region, and he is reluctant to send his sons, especially his youngest, Benjamin, to Egypt for grain a second time, Reuben makes the following extraordinary offer: “You may kill my two sons [that is, your own grandsons!] if I do not bring him back
to you.” Poor Reuben! His intention is correct, he is trying to restore himself to his father’s good graces, but he just cannot seem to get it right (Gen. 42:36-38).

9. When brothers dwell together and one of them dies and leaves no son, the wife of the deceased shall not be married to a stranger, outside the family. Her husband’s brother shall unite with her: he shall take her as his wife and perform the levir’s duty. The first son that she bears shall be accounted to the dead brother, that his name may not be blotted out in Israel. But if the man does not want to marry his brother’s widow, his brother’s widow shall appear before the elders in the gate and declare, “My husband’s brother refuses to establish a name in Israel for his brother; he will not perform the duty of a levir.” The elders of his town shall then summon him and talk to him. If he insists, saying, “I do not want to marry her,” his brother’s widow shall go up to him in the presence of the elders, pull the sandal off his foot, spit in his face, and make this declaration: Thus shall be done to the man who will not build up his brother’s house! And he shall go in Israel by the name of “the family of the unsandaled one.” (Deut. 25:5-10)

This is the only offense for which the prescribed punishment is public disgrace. It recalls the contretemps in the Tamar story, in which Onan, the brother of Tamar’s deceased husband Er, pretends to perform the levir’s duty, but “let [his seed] go to waste whenever he joined with his brother’s wife, so as not to provide offspring for his brother.” For this malfeasance, the essence of which is not sexual but economic—Onan does not want to lose the lion’s share of his father’s property to his dead brother’s surrogate offspring—the LORD kills him (Gen. 38:6-10). Ironically, his name becomes, at least in English, a term of, if not quite disgrace, then at any rate mild embarrassment.

In all these stories, the relevant characters’ conduct is dubious. If there is a common denominator to these nine Deuteronomic rules, it might well be this anti-filiopious (and therefore best left to inference) teaching: Don’t behave like your ancestors. Times have changed. Whatever crude circumstances may mitigate their culpability, we no longer need to act that way. We live under God’s laws. We are civilized.

IX. Of War, Women, and Whimsy

There occurs at Deut. 21:10-14 a commandment of such remarkable humanity that it merits specific mention:

When you take the field against your enemies, and the LORD your God delivers them into your power and you take some of them
captive, and you see among the captives a beautiful woman and you
desire her and would take her to wife, you shall bring her into your
house, and she shall trim her hair, pare her nails, and discard her
captive’s garb. She shall spend a month’s time in your house
lamenting her father and mother; after that you may come to her
and possess her, and she shall be your wife. Then, should you no
longer want her, you must release her outright. You must not
sell her for money; since you had your will of her, you must not
enslave her.

This rule concisely combines several benign teachings. First,
it places a restraint on one of the more obvious temptations that arise during
wartime regarding the treatment of helpless enemy non-combatants. We have
but to recall the atrocity stories about the use of rape as a tactic of war during
the dissolution of Yugoslavia in the 1990’s or during Bangladesh’s war of seces-
sion from Pakistan in 1971 to appreciate the usefulness of this rule as a step in
taming and civilizing the conduct of warfare.

The passage also is an early statement on behalf of the dignity
of women, even women who are in the most disadvantageous of situations.
Wives, it says, are not slaves. Once you take a woman as your wife, although
she was at first your captive in war, and therefore your slave, her status is
enhanced. You may not reduce her again to slavery, even if she so displeases
you that you no longer want to keep her as a wife. This limitation on the hus-
band’s power should function as a preventive check against treating his wife
high-handedly while they are married, for he cannot hold the prospect of
re-enslavement over her as a threat. Once freed, always freed. (In this respect
it is like Somerset’s Case, a famous eighteenth-century British judicial decision
that outlawed slavery within Great Britain proper. Although slavery continued
in overseas parts of the British Empire for another half-century, under the
authority of this decision as soon as a slave’s foot touched the free soil of
England he became a free man. How different might our own history have
been had the United States Supreme Court followed this precedent in the
infamous case of Dred Scott v. Sandford [1857], which, it can be argued,
ultimately led to the American Civil War!)

But thirdly, the entire process described here is one of
discouragement. The required month of waiting, while the man’s former
captive inhabits his house in the dress of a free woman, gives his blood a chance
to cool. Her required lamentation over her parents, who, for all the passage
tells us, might still be alive, is apt to impress upon him the great change that
such a marriage would impose on her life—she is to regard the impending
situation as the equivalent of her parents’ death. And the stipulation that she trim her hair as a prelude to this mourning ritual runs contrary to the rule of Israeliite mourning that we encounter a few chapters earlier:

You are children of the LORD your God. You shall not gash yourselves or shave the front of your heads because of the dead. For you are a people consecrated to the LORD your God: the LORD your God chose you from among all other peoples on earth to be His treasured people. (Deut. 14:1)

The present rule thus emphasizes the woman’s foreignness, and therewith the obstacles that may be implicit in all “mixed” marriages.

Finally, by requiring the captive woman to cut her hair and nails and to assume the trappings of a mourner, this may be the only Mosaic commandment that is specifically addressed to Gentiles. It thereby also restrains her from emotionally exploiting her position as an attractive but supposedly “helpless” captive. In so doing the Torah shows great psychological insight into the subtle power of apparent dependency, especially where sexual attraction is concerned.

X. CURSES AND GENERAL BLESSINGS

We are nearing the end of Moses’ valedictory speeches to the Israelites, and as may rhetorically befit a penultimate or antepenultimate passage, Deut. 26-28 summarily “sweeps” across past, present, and future events.

It is dominated by a glimpse into the then still distant future, an extended vision of death and devastation that awaits the Israelites when they will stray from observance of the Law and take to the worship of false gods. This long passage of over forty verses (Deut. 28:27-68), by synagogue custom recited in a hushed tone and without saying the usual blessings, enters into vivid and truly horrifying details about disease, defeat at the hand of a distant enemy, conditions of starvation that drive people to acts of cannibalism, and ultimate exile. It seems to anticipate the scenes described in the book of Lamentations, which is read on Tisha b’Av (the ninth day of the Hebrew month of Av, the anniversary of the destruction of the First Temple in 586 BCE) to its own characteristic dirge-like chant. So close is this parallel that Professor Richard Elliot Friedman, in his classic book, Who Wrote the Bible?, hypothesizes that this passage was inserted into the book of Deuteronomy by the prophet Jeremiah at the time of the Babylonian siege of Jerusalem, which he witnessed. (For Friedman, this is not an act of literary forgery, but rather of authorial revision, for he further maintains that the rest of Deuteronomy was also written by

Moses Rhetor | 1 4 7
Jeremiah, at an earlier, more hopeful time in his prophetic career [Friedman 1987, ch. 7, 208–210].

However this may be, this passage casts a long literary shadow. Consider the following two sets of verses, one from near its beginning, the other from near its end:

The LORD will strike you with madness, blindness, and dismay. You shall grope at noon as a blind man gropes in the dark; you shall not prosper in your ventures, but shall be constantly abused and robbed, with none to give help. (Deut. 28:28-29)

The life you face shall be precarious; you shall be in terror, night and day, with no assurance of survival. In the morning you shall say, “If only it were evening!” and in the evening you shall say, “If only it were morning!”—because of what your heart shall dread and your eyes shall see. (Deut. 28:66-67)

Surely the twentieth-century Hungarian-Jewish writer Arthur Koestler had the former text and others like it in mind when he entitled his novel of disillusionment with communism after Stalin’s purge trials *Darkness at Noon*. And who can forget the ironically boastful refrains of the effete French aristocrats during the night before what will prove for them the fateful Battle of Agincourt in Shakespeare’s *Henry V* (Act III, Scene 6): “Would it were day!” “Will it never be morning?” “What a long night is this!” “Will it never be day?”

The past that is evoked in the Mosaic speech is that of the Patriarch Jacob: “My father was a fugitive [or wandering or nomad] Aramean [*Arami oveid avi*]. He went down to Egypt with meager numbers and sojourned there; but there he became a great and very populous nation” (Deut. 26:5). The story is well known. Jacob, who can be considered an Aramean both because that is his mother Rebekah’s nationality and because he spent twenty years of his life dwelling with his Aramean uncle Laban and acquiring Aramean wives of his own, relocates to Egypt at the invitation, tinged with command, of his long lost son Joseph, who has succeeded there beyond anyone’s (except his own) wildest dreams. The word *oveid* usually means destruction, and suggests the vulnerability of being at the point of perishing (BDB 1979, 1-2; Hertz 1981, 859). (Possibly the bridge concept that connects these two sets of meanings is “to vanish” or “to cause to vanish” [BDB 1979, 1, 2; cf. Harlow 1985, 81, 80: “[M]any peoples shall vanish from His land—*ovdu goyim mei’arto*.”].) The authors of the Passover Haggadah adopted and much adapted this passage by using this word in its more usual sense to create a very different meaning:
Go forth and learn what Laban the Aramean attempted to do to our father Jacob. While Pharaoh decreed only against the males, Laban attempted to uproot all. For it is said: “An Aramean would have destroyed my father; and he went down to Egypt and sojourned there, few in number. There he became a nation, great, mighty and numerous.” (Deut. 26:5; see Glatzer 1989, 39-41.)

Now, we remember Laban as a trickster and a cheat, but hardly as a would-be murderer. On the contrary, it is he who provides Jacob with all four of his wives, and thereby makes possible the growth of the Abraham-Isaac-Jacob line into a family of fairly respectable size. But as Rabbi Elihu Milder taught, this haggadic selection was composed during the Hellenistic Era, when the Jews were trying to conciliate Egypt, as a possible ally against the Seleucid Syrians. It is no easy thing to speak kindly of the Egyptians in a text that celebrates the Exodus. So the next best thing, a token of accommodation, was to say, “As bad as the Egyptians were to us, the Syrians were worse.” Call it a form of praising with comparative damnation. On the other hand, there is a point in the Jacob narrative at which Laban clearly bears some ambiguously described hostility toward Jacob, when Jacob, with his wives, children, servants, flocks, and herds, suddenly and secretly leaves Laban’s household. When Laban learns of their departure three days later, he and his kinsmen set off in hot pursuit, but during the night before their encounter God warns Laban in a dream, “Beware of attempting anything with Jacob, good or bad” (Gen. 31:22-24). What follows therefore is not a scene of attempted carnage but of mutual complaint and recrimination, which we can perhaps characterize as the world’s (at least Scripture’s) first recorded labor-management dispute (Gen. 31:36-54). One of Laban’s accusations is that Jacob is depriving him of his daughters and grandchildren, and one of the conditions he extracts from Jacob is that he will not take any other wives, so ensuring that his wealth will remain within Laban’s extended family (Gen. 31:43, 50). It thus seems most doubtful that Laban ever intended the kind of total extermination implied by the Haggadah passage. (Contrast with this Jacob’s palpable fear that his brother Esau just might annihilate his entire family [Gen. 32:4-13].)

As for the present, or the almost-present near future, Moses commands the twelve tribes of Israel to stand, six tribes apiece, on two opposing mountains, and to assent to fairly short parallel sets of blessings and curses. Those are specifically cursed who make sculptured or molten images and set them up in secret; who insult their parents; who move their countryman’s landmark; who misdirect the blind; who subvert the rights of strangers, orphans, and widows; who have sexual relations with their father’s wife, or with
any beast, or with their sister or mother-in-law; who strike down their fellow countryman in secret; who accept a bribe to acquit the murderer of an innocent person; and, more generally, who will not uphold and observe the terms of this (the Deuteronomistic Mosaic) teaching (Deut. 27:15-26). The blessings are not for specific deeds, but are a list of specific benefits that will follow from observing all the LORD’s Commandments contained in the Deuteronomistic Mosaic speeches. They broadly consist of fecundity of offspring, crops, herds, and flocks, and other manifestations of prosperity; military victory; secure possession of the promised land; cooperative weather; and prestige and respect among the nations as the LORD’s people (Deut. 28:3-14). The rewards, that is, all seem quite practical and down to earth, and the implied virtues have mostly to do with purity of worship; sexual purity; respect for parents, property rights, and legal process; and the avoidance of stealth. Except for the surprising omissions of Sabbath observance and blasphemy, the curses generally seem to replicate, though in roundabout formulations, the substance of most of the Ten Commandments.

XI. Social Contractarianism

As students of politics well know, there is a school of political philosophy, Social Contract Theory, which tries to understand political community as though it came into being through the voluntary agreement, compact, or covenant of autonomous, rational individuals. This approach had its heyday in the seventeenth and eighteenth centuries, and finds practical expression in the American Declaration of Independence and the United States Constitution. But its antecedents stretch back to classical antiquity. A prefiguration of it is found as we approach the end of Deuteronomy, when Moses says to the assembled Israelites:

You stand this day, all of you, before the LORD your God—your tribal heads, your elders and your officials, all the men of Israel, your children, your wives, even the stranger within your camp, from woodchopper to waterdrawer—to enter into the covenant of the LORD your God, which the LORD your God is concluding with you this day, with its sanctions; to the end that He may establish you this day as His people and be your God, as He promised you and as He swore to your fathers, Abraham, Isaac, and Jacob. I make this covenant, with its sanctions, not with you alone, but both with those who are standing here with us this day before the LORD our God and with those who are not with us here this day. (Deut. 29:9-14)
But how can a covenant be made, a contract be concluded, with those who are not present—meaning, presumably, not yet born? Nor is this problematic notion peculiar to the immediate passage. Moses had spoken in a similar vein at the beginning of his valedictory address:

The LORD our God made a covenant with us at Horeb. It was not with our fathers that the LORD made this covenant, but with us, the living, every one of us who is here today. (Deut. 5:2-3)

We may, however, recall that the covenant at Horeb, also called Mount Sinai, was in fact with their fathers, and that subsequent to this dispensation came the disastrous spy mission, when the LORD vowed in anger that “[n]ot one of these men, this evil generation, shall see the good land that I swore to give to [their] fathers,” except for Caleb son of Jephuneh and Joshua son of Nun (Deut. 1:34-38). So began thirty-eight years of desert wandering, in which the generation who showed themselves unsuited to take possession of the Promised Land perished. In other words, the people whom Moses addresses in Deuteronomy are, by design, not the generation who were present at Mount Sinai, or at best they were only children at that time. The intergenerational symbolic presence that Moses ascribes retrospectively to his immediate listeners he also now projects into the future for their descendants, regarding both the covenant at Horeb and the more elaborate covenant at Moab which fills the book of Deuteronomy.

The myth of symbolic or vicarious presence that Moses here constructs is one with which Americans at least are apt to be familiar. It is not unusual to hear our fellow citizens, not only the descendants of the revolutionaries of 1776 but even recent immigrants, speak of long past American history in the first person, usually plural: “When we fought the British / adopted the Constitution / abolished slavery…” etc. A well-known passage from the Passover Haggadah describes, and recommends, the same phenomenon:

In every generation let each man look on himself as if he came forth out of Egypt. As it is said: “And thou shalt tell thy son in that day, saying: It is because of that which the Lord did for me when I came forth out of Egypt.” (Exod. 13:8; Glatzer 1989, 59)

Essential to this advice is the periodic repetition and reaffirmation of the “adopted” experience. Thus, shortly thereafter, Moses instructs the levitical priests and elders of Israel to read “this Teaching” (hatorah hazos) to the gathered people in their communities every seventh year (Deut. 31:10-13). Today’s Jews, of course, hear it (or at least have the opportunity to hear it) every week of every year, in the regular synagogue readings. Just as essential is that
we understand what we hear. Whatever difficulties Torah interpretation may pose, Moses emphasizes its accessibility:

Surely, this Instruction which I enjoin upon you this day is not too baffling for you, nor is it beyond reach. It is not in the heavens, that you should say, “Who among us can go up to the heavens and get it for us and impart it to us, that we may observe it?” Neither is it beyond the sea, that you should say, “Who among us can cross to the other side of the sea and get it for us and impart it to us, that we may observe it?” No, the thing is very close to you, in your mouth and in your heart, to observe it. (Deut. 30:11-14)

In American constitutionalism, Chief Justice John Marshall expressed a similar thought when he said, in the landmark case of *McCulloch v. Maryland* (1819), that a constitution, in contrast to a full-blown legal code, must be written with a degree of brevity and generality that allows it to be “embraced by the human mind” and “understood by the public” (4 Wheat. 316, at 407).

Thus, what the Haggadah advises regarding the Exodus Moses does for the Covenant. Every Israelite encounters it as though he personally had stood at the foot of Mount Sinai. In the big picture it matters less that the people were not yet ready to appreciate the Law when it was given than that, whenever they might become fit to receive it, it will be waiting for them.

**XII. MOSAIC POETRY**

Having demonstrated his rhetorical skill as a public speaker, lawgiver, and forecaster, Moses turns his hand to writing poetry, or rather to reciting a poem that the LORD has taught him (Deut. 31:19, 22, 30; 32). The passage is difficult for the translator and for the reader, because of its use of metaphor and because the vocabulary is unusual, including, we gather, some terms that appear nowhere else in Scripture, the meaning of which must therefore simply be guessed. But the poem’s general sense is clear, up to a point. The “plot line” of what comes to us as the first 25 of its 43 verses runs as follows:

32:1-6: opening invocation and announcement of a theme—the LORD’s perfection, in contrast to his children’s (presumably, Israel’s) unworthiness;

32:7-14: the favors that the LORD has done for Israel, from protection during their desert wanderings through their subsequent prosperity;

32:15-18: Israel’s ingratitude, forsaking of God, and indulgence in idolatry;
32:19-25: the LORD’s anger and resolution to punish Israel with famine, plagues, and oppression at the hands of a foreign “nation of fools.”

Thus far the poem returns us to the brink of the “curses” section of the previous chapters (Deut. 28:15-68). But instead of replicating that prose prophecy’s elaborate, vivid, and horrifying catalog of punitive calamity and suffering, the poem now takes a different twist in verses 26 and 27:

I might have reduced them [i.e., Israel] to naught,
Made their memory cease among men,
But for fear of the taunts of the foe,
Their enemies who might misjudge
And say, “Our own hand has prevailed;
None of this was wrought by the LORD!”

That is, God reconsiders and turns back from His contemplated destructive course of action. Moreover, He does so out of concern for what the Gentiles might think and say, and not just any Gentiles but Israel’s enemies!

The next four verses are treated differently by Hertz and by the editors of the Jewish Publication Society translation, from which we continue to quote:

For they [i.e., the pagans] are a folk void of sense,
Lacking in all discernment.
Were they wise, they would think upon this,
Gain insight into their future:
“How could one have routed a thousand,
Or two put ten thousand to flight,
Unless their Rock had sold them,
The LORD had given them up?”
For their rock is not like our Rock,
In our enemies’ own estimation. (Deut. 32:28-31)

The JPS treats these lines as a digression: “Here, apparently, Moses is the speaker; God resumes in v. 32” (Tanakh 1988, 328). Hertz, however, has no such note, and apparently assumes that these lines are an integral part of the poem.
itself, that God speaks these words as well as the surrounding material, an assumption that the Everett Fox translation and the Stone *Chumash* seem to share (Hertz 1981, 900; Fox 1995, 1004-05; Scherman 1996, 1107).

What difference does it make? The effect of regarding this passage as a parenthesis by Moses is to make ambiguous the antecedent of the pronoun “they” in the next set of verses:

Ah! The vine for them is from Sodom,…

The grapes for them are poison,

A bitter growth their clusters.

Their wine is the venom of asps,…

Yea, their day of disaster is near,

And destiny rushes upon them. (Deut. 32:32-35)

Who is being spoken of here, the erring Israelites or their foreign persecutors? It could be either. If, on the other hand, the poem is a continuous speech authored by God, then this sequel is almost certainly about the Gentiles, and the last third of the poem becomes a statement not about the LORD’s harsh judgment of Israel but about His protecting them despite their provocation of Him.

Almost certainly, but not absolutely so. As the Orthodox edition notes of the just quoted verses, “According to *Rashi*, the Torah has ended its discussion of the nations and reverts to Israel, explaining why they were deserving of such a crushing defeat. According to *Ramban* and *Sforno*, however, the Torah continues to describe the evil of the nations” (Scherman 1996, 1107). (*Rashi* = “Acronym for *R’ Shlomo Yitzchaki* [1040–1105], considered the commentator par excellence. Rashi’s commentary on the Pentateuch as well as his commentary on the Talmud are considered absolutely basic to the understanding of the text to this very day.” *Sforno* = Rabbi Ovadiah Sforno, a sixteenth-century Italian commentator on the Torah [Scherman 1996, 1301, 1302]. For Ramban, see Section VI above.) The passage, that is, works so well either way that the rabbinical tradition wants to hold onto both possibilities. Is this perhaps because, when they behave foolishly, Jews and Gentiles act pretty much the same?

As mentioned before, God seems to change course out of regard for the opinion of the pagans. Although He is Israel’s special Protector, the LORD is also Lord of the world and Arbiter of nations, Who cares about
the other nations’ errors, as Jews remind themselves on the afternoon of Yom Kippur, when they read the book of Jonah. This dual note is struck even at the poem’s beginning:

When the Most High gave nations their homes
And set the divisions of man,
He fixed the boundaries of peoples
In relation to Israel’s numbers. (Deut. 32:8)

We have also heard it earlier in Deuteronomy:

[T]he LORD your God allotted [the sun and the moon and the stars, the whole heavenly host, as objects of worship] to other peoples everywhere under heaven; but you the LORD took and brought out of Egypt, … to be His very own people. (Deut. 4:19-20)

And earlier still in the Torah:

I will bless those who bless you
And curse him that curses you;
And all the families of the earth
Shall bless themselves by you. (Gen. 12:3)

The Deuteronomic poem thus forms a link in a chain of texts that depict Israel, in a variety of ways, as the measure of other nations, and that affirm God’s concern for the state of mind and the fate of all peoples.

Chapter 32 then continues with a few (much easier to read) verses of narrative, which appear in the JPS translation as follows:

Moses came, together with Hosea son of Nun, and recited all the words of this poem in the hearing of the people.

And when Moses finished reciting all these words to all Israel, he said to them: Take to heart all the words with which I have warned you this day. Enjoin them upon your children, that they may observe faithfully all the terms of this Teaching. For this is not a trifling thing for you: it is your very life; through it you shall long endure on the land that you are to possess upon crossing the Jordan.

That very day the LORD spoke to Moses: Ascend these heights of Abarim to Mount Nebo, which is in the land of Moab facing Jericho, and view the land of Canaan, which I am giving the Israelites as their holding. You shall die on the mountain that you are about to ascend, and shall be gathered to your kin, as your
brother Aaron died on Mount Hor and was gathered to his kin; for you both broke faith with Me among the Israelite people, at the waters of Meribath-kadesh in the wilderness of Zin, by failing to uphold My sanctity among the Israelite people. You may view the land from a distance, but you shall not enter it—the land that I am giving the Israelite people. (Deut. 32:44-52)

We offer four observations on this passage.

First, Rabbi Hertz, by following the word order of the Hebrew more closely, translates its opening sentence with a significantly different nuance: “And Moses came and spoke all the words of this song in the ears of the people, he, and Hoshea the son of Nun.” Hosea (or Hoshea) is, of course, Joshua, who has already been designated as Moses’ political heir (Num. 27:18-23). In both versions of the poem episode, he plays a supporting and very visible role, but just what role? JPS has him accompanying, and presumably standing beside, Moses, who himself recites the poem or song to the assembled people. Hertz preserves the ambiguity of the Hebrew, which opens to the possibility that Joshua shares in the poetic recitation. What difference does it make? We are told a few chapters later that “Moses was a hundred and twenty years old when he died; his eyes were undimmed and his vigor [or natural force—leihoh] unabated” (Deut. 34:7). The more literal Hertz version allows for the interpretation that, in whatever other ways his vigor might have remained intact, Moses’ strength of voice might have slackened. This would hardly be surprising in light of the long speeches he had already just delivered, and is consistent with a few earlier passages in which he and either the elders of Israel or the levitical priests apparently address the people together (Deut. 27:1, 9). The point is that, notwithstanding the extraordinary vigor he shows for a man of quite advanced years, he can no longer do it all alone, that the need for a transition has become manifest.

The second point involves a matter that is bound to be unclear in English (at least in contemporary English), no matter which translation one uses. Moses’ post-poetic exhortation to the people is cast entirely in the plural:

Take to heart [simu l’vakhem] all the words with which I have warned you [l’khol-hadvarim asher anokhi mei’id bokhem]. …Enjoin them upon your children [asher t’tzâ’um es-b’neikhem]. …For this is not a trifling thing for you [ki lo-davar reik hu mikem]; it is your very life [ki-hu hâyeikhem]; through it you shall long endure on the land that you are to possess upon crossing the Jordan
The emphasis is not on the personal but rather on the collective, national character of both the duty and its consequences. At stake here is the well being and the endurance of a people. The appeal is profoundly political.

Thirdly, Moses is told to ascend Mount Nebo, in order to view the land that the LORD is giving to the Israelites. The passage is reminiscent of an episode in Abraham’s career, when, standing atop an unnamed mountain that overlooks the Jordan valley, he is told by the LORD, “Raise up your eyes and look out from where you are, to the north and south, to the east and west, for I give all the land that you see to you and your offspring forever” (Gen. 13:14-15). Concerning Mount Nebo The Interpreter’s Dictionary of the Bible says:

Mount Nebo is probably modern Jebel en-Neba, its altitude being ca. 2,740 feet above the level of the Mediterranean, and so ca. 4,030 feet above the Dead Sea. Seen from the E, Mount Nebo is just a spur of the Moabite Plateau; however, it is a noteworthy mountain, seen from the plains of Moab just W of its foot.…

As indicated by Deut. 34:1-3, Mount Nebo … commands a magnificent view to the N, W, and SW. To the N and the NE is the fertile plateau of Transjordan. Far to the N, under favorable conditions can be seen snow-capped Mount Hermon. As the eye moves S, there can be seen Tabor, Ebal, and Gerizim, the heights of Judah and Benjamin, the ridge stretching to the S on which lie Bethlehem and Hebron, the Dead Sea as far as Engedi. Directly below is the Valley of the Jordan. (IDB 1990, vol. 3, 529)

Finally, and most significantly, it is emphasized, for neither the first nor the second time, that Moses will die here and not enter the Promised Land (cf. Num. 20:12-13; Deut. 3:23-28). Officially, this prohibition is referred to the “waters of Meribath-kadesh” incident, in which Moses produced water from a rock by striking it twice instead of by speaking to it as the LORD had commanded (Num. 20:2-13). This is a troubling passage, on which there is a great variety of rabbinical commentary, some of which suggests that Moses’ failing in this event is not a uniquely fatal dereliction in an otherwise flawless career, but rather the “last straw” in a career that is frequently punctuated with errors and misunderstandings (see Gleicher 2003, 141-144; Deut. 1:37).

However this may be, students of politics can well appreciate how both Moses and the Israelites might be ill served were he to accompany
them further. His reputation as a Founder would be compromised by the kind of mundane policy decisions that ordinary rulers must make. Also, the immediate task of military conquest may call for a person of different natural talents than a superannuated Legislator. But his continued presence would tend naturally to distract attention from, and therewith detract from the authority of, his successor Joshua. And were he to die and be buried in some known place, the temptation to deify him and to turn his tomb into the central shrine of an idolatrous cult might prove overwhelming. The phenomenon described here is not altogether singular to the Israelites. Thus, we read similar accounts, from Plutarch and Livy, of Lycurgus and Romulus, the legendary lawgivers of Sparta and Rome, either voluntarily leaving the communities they had founded or being carried off by the gods (Plutarch, “Life of Lycurgus,” XXIX, XXXI; “Life of Romulus,” XXVII-XXVIII; Livy, I.xvi). Even God’s greatest prophet, it seems, must not overstay his welcome.

XIII. CONCLUDING BLESSINGS

The last several chapters of the Book of Deuteronomy are rather like a Tchaikovsky symphony. Just when you think the work is about to end, the composer introduces another tune. Moses concludes his “second telling” of the laws, but then adds some general curses and blessings, then a long and elaborate curse, then a prophetic poem, and then finally a series of statements, officially called a blessing, regarding most of the individual tribes. These statements virtually invite comparison with a parallel passage near the end of the book of Genesis, where the dying Patriarch Jacob makes a set of valedictory remarks to his sons.

In terms of total length, the two are about the same. Jacob’s statements occupy twenty-six verses, Moses’ twenty-eight (Gen. 49:2-27; Deut. 33:2-29). But nine of the Mosaic verses, almost a third of the total, deal with the Israelite nation as a whole, rather than the tribes in their particularity. Moreover, Moses speaks consistently about the tribes as collectivities, while about half of Jacob’s comments are about the individual men from whom the tribes will derive, and some of the comments are quite personal and usually derogatory. This is hardly to be wondered at. As one who comes along later, Moses is not in a position to know these men personally. Jacob, on the other hand, knows them all too well. Jacob, it should be noted, ends his life a broken and bitter man (see, e.g., Gen. 47:7-10). While it is not entirely clear that Moses dies contented—he is, after all, forbidden, contrary to his own preference, from crossing over into the Promised Land (Deut. 3:23-28), his last words to the nation are suffused with the hopeful prospect of Israel’s imminent military
victory under Joshua’s leadership and the LORD’s protection (Deut. 33:2-5, 26-29).

   Even when he has little to say about a particular tribe, Moses
   tries to strike a positive note, as in the cases of Dan

   —Dan is a lion’s whelp
   That leaps forth from Bashan (Deut. 33:22)—

   and Reuben

   —May Reuben live and not die,
   Though few be his numbers. (Deut. 33:6)

And where he apparently has nothing kind to say, he says nothing at all. Concerning the tribe of Simeon he is quite silent. Likely this is because the Simeonites played the leading role in the then still recent apostasy and near-rebellion at Baal-peor and probably suffered the greatest loss of population and prestige as a consequence (Num. 25:1-15; 26:12-14; cf. 1:22-23). Jacob, let us recall, is unforgiving toward Reuben for the outrage he had committed many years earlier in consorting sexually with Jacob’s concubine Bilhah, highly critical of Simeon and Levi for their violence toward the Shechemites, and ambivalent in his characterization of Dan as both a governor of his people and a treacherous serpent (Gen. 49:3-7, 16-17; 35:22; 34:25-26).

   Surprisingly, Moses has rather little to say about Judah, for
   whom Jacob’s words are usually taken as an unqualified blessing (although an
   alternative, much less flattering, reading is possible) (Deut. 33:7; Gen. 49:8-10).
   Also, historically Judah emerged as the preeminent tribe of united Israel and
   then as the separate Southern Kingdom, which survived the ten northern
   tribes by a century-and-a-half, facts that would have been known to the
   Deuteronomist, if, as critical scholarship maintains, the “D” source dates from
   the last days of the Kingdom of Judah (Friedman 1987, ch. 6). In short, we
   would expect more from Moses than this minimalist blessing:

   Hear, O LORD the voice of Judah
   And restore him to his people.
   Though his own hands strive for him,
   [alt.: His hands shall contend for him, or Make his hands strong for him.]
   Help him against his foes. (Deut. 33:7)
Where Moses’ and Jacob’s blessings most clearly coincide are in the amount of attention and the high praise they both give to Joseph and, in Jacob’s case implicitly, to the Josephite demi-tribes of Ephraim and Manasseh (Deut. 33:13-17; Gen. 49:22-26). Joseph was, of course, Jacob’s favorite son, the first-born of his beloved wife Rachel, and remained so even through the several decades when he was presumed dead but was in fact pursuing his remarkable career in Egypt, so Jacob’s superlative praise comes naturally. Moses’ effusiveness calls for a different kind of explanation. Perhaps he is clearing a path for his designated political successor Joshua, who is an Ephraimite (Num. 13:8). Within his Josephite blessing, Moses maintains Ephraim’s primacy:

Like a firstling bull in his majesty,  
Joseph has horns like the horns of the wild-ox;  
With them he gores the peoples,  
The ends of the earth one and all.  
These are the myriads [i.e., tens of thousands—riv’vos] of Ephraim,  
Those are the thousands [al’fei] of Manasseh. (Deut. 33:17; cf. Gen. 48:8-20; 1 Sam. 18:5-9)

This political rationale would also apply to the very different treatments of Levi. Jacob had paired Levi with Simeon, as lawless, irascible outcasts:

Let not my person be included in their council,  
Let not my being be counted in their assembly.  
For when angry they slay men,  
And when pleased they maim oxen.  
Cursed be their anger so fierce,  
And their wrath so relentless.  
I will divide them in Jacob,  
Scatter them in Israel. (Gen. 49:6-7)

Moses, himself of course a Levite, gives this “scattering” completely distinct meanings. For the tribe of Simeon, as we have seen, it means anonymity suggestive of obliteration. For the Levites, on the contrary, it means landlessness and dispersion among the other tribes, and support by them, in their distinguished ecclesiastical role as the nation’s religious elite, a status they have earned by their unique loyalty to the LORD in the aftermath of the Exodus.
from Egypt, especially in the Golden Calf affair, and during the period of desert wandering. Levi is

… Your faithful one,
Whom You tested at Massah,
Challenged at the waters of Meribah;
Who said of his father and mother,
“I consider them not.”
His brothers he disregarded,
Ignored his own children.
Your precepts alone they observed,
And kept Your covenant. (Deut. 33:8-9; cf. esp. Exod. 32:25-29)

Accordingly, Moses’ blessing of Levi, and of Levi only, is comparable in length and enthusiasm to that accorded the tribe of Joseph. Between them, they represent, if not quite the separation of Church and State, then at least a division of political and sacerdotal functions and leadership to help ensure that in this, as well as in other respects, there would never again arise in Israel a prophet like Moses (cf. Deut. 34:10-12).

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This essay attempts to link the responsiveness of republican government with a certain modality of paternalistic (or unequal) friendship. The first section examines Aristotle’s theories of the equal and unequal friendships. A second section takes up Montaigne’s thoughts on friendship, focusing in particular on Montaigne’s rejection of Aristotle’s notion of unequal friendship, and what such a rejection might imply for republican government. Ultimately, I side with Aristotle, suggesting that political friendship (and republican government, which implies a sense of belonging, responsiveness, and the possibility of registering complaints) is necessarily structured as a friendship of unequals. I argue that Montaigne’s rejection of unequal friendships ultimately blinds him to the dangers inherent in the extra-political or trans-political character of the perfect friendship and the advantages for politics associated with the friendship of unequals.

The right to air grievances is at the root of liberal society. Even among those who reject rights-based liberalism are the many republicans who hold that citizens in any free polity must be bestowed with not only the capacity, but also the means to complain to the regime, with not only the right to free speech, but with actual mechanisms to communicate to rulers. Moreover, the complaint must also be lodged somewhere, not merely logged. A republican government, in turn, must find a way to register critiques, to find a way to be responsive. It must not only hear, but also listen; if silence reigns, republican government is threatened because the governed no longer get any say in their government.
Consider this ethics of complaint from Dr. Johnson (1971, 93):

I am very far from intending to debar the soft and tender mind from
the privilege of complaining, when the sigh rises from the desire not
at giving pain, but of gaining ease. To hear complaints with
patience, even when complaints are vain, is one of the duties of
friendship …[I]t cannot be denied that he who complains acts
like a man, like a social being who looks for help from his fellow
creatures.

For Dr. Johnson, ‘hearing complaints with patience,’ listening, is a ‘duty
of friendship.’ To be sure, only friends would, or could be expected to, suffer
complaining. In this vein, Jacques Derrida (1997, ix) remarks on Montaigne’s
invocation of Aristotle’s refrain: “O my friends, there is no friend’: this is
perhaps a complaint, and a grievance, the complaint of one who complains, to
oneself, of oneself, or complaints of the other, to others. But here, with whom
will the complaint about the other be lodged, given that we are addressing
friends to inform them that there are none?”

In the analysis to come, the parallel between complaining
to friends, who are generally equals, and to rulers in governments, who are
unequal in power, may be thin. True grievances to which citizens expect a
political response will not often be those of fellow men acting like social beings
looking for help from their fellow creatures, their governors. Political griev-
ances, sure enough, will be politicized. Yet often they will be about gaining relief
from oppression, from incursion into fundamental rights. Mobilized com-
plaining, politicized though it may be, will often be inspired from individuals
who may legitimately need redress. Progressive politics, then, seem to demand
sensitivity to complaints, a feature associated with friendship by Johnson,
Derrida, Montaigne and others.

Here I essay to explore Aristotle’s preservation of the realm of
unequal friends in service of politics as well as Montaigne’s oversight in refus-
ing to admit political friendship into his own typology. Friendship between
unequals is the model Aristotle elucidates in his vision of political communi-
ty: rulers need concern to lodge complaints sensitively, and the ruled need to
expect power to be exercised with care. Oddly, then, paternalism, the special
relation of care embodied by the parent-child relation may provide a helpful
way of mapping political relationships, even in republics. Absent unequal
friendship, republics may lack the ‘ties that bind’ because the aggregation of
equal friendships in civil society, while providing some integration, still cannot
be conceived to level power.
Aristotle’s most involved discussion of friendship appears in a work that purports to be about political science, the *Nicomachean Ethics*. There are many plausible reasons that would explain why Aristotle thinks it fitting to include an account of friendship in a political treatise. In these prefatory remarks, I’ll suggest two, though the thrust of this essay argues for a third, less obvious, justification. First, Aristotle’s ethics may derive from what we commonly call ‘communitarian’ concerns. He tries to construct a ‘building-up’ approach of a universal system of ethics. The ‘building-up’ approach posits an ideal of starting to think about ethics in relation to our immediate loyalties and then to universalize our moral imperatives only subsequently. From our attitudes towards our friends, we can divine how human beings ought to be treated. Elaine Scarry (1999, 81) has written of “Plato’s requirement that we move from *eros*, in which we are seized by the beauty [or virtue] of one person, to *caritas*, in which our care is extended to all people.” A similar strategy may be detected in Aristotle, one noticed by Alasdair MacIntyre (1984, 155) when he writes that “the realization of the human good presupposes of course a wide range of agreement in that community on goods and virtues, and it is this agreement which makes possible the kind of bond between citizens which, on Aristotle’s view, constitutes the *polis*.” MacIntyre claims in the name of Aristotle that pre-understanding enables understanding, that friendship (often emerging from likemindedness) makes possible general civic bonds. Of course, MacIntyre also tries to defend the implausible claim that political friendship can be understood to be a form of virtue-friendship, the highest form in Aristotle’s typology. (For a convincing rejection of this view, see Yack 1993, 109-27.)

A second explanation for the discussion of friendship in the *Ethics* is related. Perhaps a successful political regime must engender in its political leaders and citizens the virtue of caring not only for the regime itself, but also for its citizenry: cohesion may require that citizens care about one another and that leaders care about the ruled. To put the point another way, a well-ordered society must confront the Emersonian challenge to charity: “Do not tell me of my obligation to put all poor men in good situations. Are they my poor? I tell thee, thou foolish philanthropist, that I grudge the dollar, the dime, the cent I give to such men as do not belong to me and to whom I do not belong” (Emerson 1965, 244). Yet, implicit in Emerson’s rumination is the assumption that if he could be persuaded that the poor were, after all, his, then maybe he could be counted on always to keep their interests in mind. In this Emersonian paradigm, *belonging* to a community is critical for a sympathetic political life where self-interest is enlightened by confrontations with others. A regime can be conceived as an attempt to render citizens and leaders in such a
way as to make them feel that their society belongs to them and that they should care about it thusly. A regime’s success can then be measured by the extent to which public reasons are used more than private ones in political decisions. Aristotle recognizes, with most contemporary critics of liberalism, that failing to answer the Emersonian challenge is ‘political suicide.’ Without a nuanced and deeply-rooted sense of being stakeholders, citizens are sure to become apathetic and may not be able to express their freedom through the polis. But if one’s friends are part of the polity, if one’s peers are leaders, a citizen is more likely to remain law-abiding, caring for the societal organization. Aristotle (1985, 1155a23) puts it this way: “Friendship would seem to hold cities together.” Book 8 of the Ethics is where Aristotle’s treatment of friendship appears; Book 8 of the Politics contains this passage: “One ought not even consider that a citizen belongs to himself, but rather that all belong to the city; for each individual is a part of the city” (Aristotle 1984, 1337a25-30).

For Aristotle, friendship is crucial for regime-maintenance. Judith Swanson (1992, 189) notes that “Aristotle seems to make the case that political rule requires mostly listening to the ruled, that this is what makes rulers and ruled friends.” Swanson (1992, 189) also notes that this political demand, of sympathy and consideration, obscures Aristotle’s firm appreciation that rulers must not merely take common opinion into account. Being a good ruler also requires the exercise of prudence—the capacity to ignore the masses in the interest of justice. As Judith Shklar (1984, 145) has remarked, “Republics, and liberal democracies especially, rely on mutual trust between governments and citizens to an unusual degree.” Aristotle’s account of friendship is poised to address these political necessities of listening and trust between (and among) members and leaders. These conditions, of course, take us back to where we began—seeing the heeding of complaints as important in friendly as well as political relations.

Here is my central thesis about Aristotle: He is motivated to maintain the friendship of unequals for the sake of politics—his political friendship is not an imperfect approximation of the ideal type of friendship, but is its own type with its own catalogue of uses and disadvantages. Even though complete trust exists only between true friends on Aristotle’s theory, he preserves a lesser public trust, one that can be accomplished in the friendship of unequals.

This political need for friendship is one to which Montaigne seems only hesitantly committed. Montaigne appropriates Aristotle’s ‘true’ friendship so completely that he pays too little attention to friendship’s political
relevance in any more than a trivial sense. To be sure, Montaigne recognizes that the virtue of receptiveness to complaints and the art of discussion are required in both friendship and politics. But since he is unwilling to relax his high standards for friendship, he can’t use the political relation as a potential source for a civic friendship (or the other way around) which might help gesture toward a liberal civic republic and provide some rejoinder to the Emerson challenge to make fellow citizens and their leaders all belong to one another.

Pause to ask yourself which task is more difficult and more pressing: making friends more like family, or making family more like friends. “In less abstract form, this difference is expressed in the fact that the relationship between David and Jonathan is the only example in the Hebrew Bible of what one would call an admirable friendship. It is a source of outrage to Jonathan’s father, Saul, that his son prefers his friend to his father, which indeed he does. For Saul, the primacy of the family relations is so great that the threat to them posed by this friendship can only appear a perversion and a crime.” (A. Bloom 1993, 438) Montaigne is relentless in his insistence on the contingency of the family. Since it isn’t chosen of free will, it is a poor basis for any normative account of friendship; this is a clear inheritance from Plato’s under-read dialogue, the Lysis. (See Bolotin 1979.) Yet, Aristotle sees the household as primary precisely because it is the site of the inculcation of virtue and habituation, even if it is predominantly in the realm of necessity, not freedom. As this necessity can lead to freedom, indeed because freedom depends on the relationships formed in and as a result of the household, Aristotle preserves a conception of the friendship of unequals—the paradigm of which is the friendship within the family, the friendship of parents and children. Montaigne has an answer to the query put to the reader above, while Aristotle wavers. For Montaigne, the familial is too familiar to be meaningful; the filial causes fraternizing, a pathological sort of friendship with excessive familiarity. For Aristotle, who saw the dangers that scared Montaigne away, the family is nevertheless critical to political practice, so he prizes the family and models politics on its basis, even if it isn’t emblematic of the highest form of friendship. Precisely because he allows for the friendship of unequals, Aristotle provides a viable way to model civic friendship on the basis of the family. With Aristotle, Montaigne embraces a conversational ideal where friends engage each other, confront each other, and listen to each other in their moments of complaint. He even thinks such an ideal should be paradigmatic for family and political life. But because Montaigne refuses to admit the political relations as friendships, it is hard to see how such a conversational ideal would effect the kind of result liberal republicans prize—receptiveness to complaints. What
ensures on Montaigne’s model a receptive public sphere? It is worth noting that modern liberal republicans too often side with Montaigne in vigorously protecting the privacy of friendship; this essay hopes to provide the groundwork for preferring Aristotle’s version in a republican regime. This may mean we will need to de-romanticize friendships. Yet I suspect this use of ‘lesser’ unequal friendships will not debase the concept if it is used to ground our liberal rights to have the truest of friends in the first place.

I. ARISTOTLE

Aristotle asks the same questions as Plato’s Socrates does in the *Lysis*, but his answers are less ambiguous than Plato’s: Aristotle wants to know if similars are friends or if opposites attract; he wants to know who may have friends, the virtuous or merely those aspiring toward virtue. By aiming to tease apart different kinds of friendship in a systematic way, Aristotle can separate a ‘true’ friendship from other sorts. Yet, Aristotle’s account allows for incomplete friendships, friendship of unequals, because he is so committed to friendship’s importance in his theory of politics. Plato’s one unambiguous teaching in the *Lysis* is that friends must be chosen, and that natural differences in status (like the parent-child and master-slave relation) stymie friendship’s development. Aristotle’s theory of friendship takes a stand against Plato, against Socrates’s communistic untying of man from his household. Aristotle sees in friendship the social glue that holds together the fabric of a just society so feels no urge to emphasize the need to perform a lysis of the familial bond. (For an excellent recent discussion of Aristotle’s treatment of the family as it pertains to friendship, see Belfiore 2001.)

In the first instance, Aristotle’s tripartite condition for friendship is rigorous and difficult to achieve. First, one must wish goods for the friend’s own sake alone. This undermines the possibility of friendship from utility because in the case of the useful, one doesn’t wish for the good of the beloved only for the beloved’s sake. Another criterion is reciprocity: Aristotle claims that unreciprocated goodwill (wishing the good of another for his own sake without his wishing the same for you) is not constitutive of proper friendship. Finally, the third standard is the mutual consciousness of the reciprocated goodwill. Yet, in spite of his stringent requirements for the highest kind of friendship, Aristotle acknowledges that since friendship aims at what is lovable, there are three degrees of friendship: the useful, the pleasant, and the good, all of which are lovable to a certain degree.
In his analysis of the different degrees of friendship, Aristotle labels incomplete the useful and the pleasant because they are easily dissolved. Both friendships used as a means toward some intermediate end, and friendships sought merely for pleasure, disintegrate when the end in question is achieved. The real enduring friendships, then, are those “of good people similar in virtue” (Aristotle 1985, 1156b6). Together, friends must seek the good, most specifically the good of friendship, which is, for Aristotle, a good in itself, the “greatest external good” (1169b7-10). Presumably, this too is a rejection of a central argument of the Lysis; Socrates argues rather vehemently and more than once that the good man would be self-sufficient. It is also a rejection of Montaigne’s strange claim that “Aristotle gives glory the first rank among external goods” (Montaigne 1958, 470 [“Of Glory”]). As does Montaigne, Aristotle believes that friendship is the greatest of external goods. Thus, the only true and complete friendship on the Aristotelian paradigm is in the realm of the good—excellent people seek each other because “solitude makes happiness impossible” (1169b16) and because “good people’s life together allows the cultivation of virtue” (1170a11-15). Jean-Claude Fraisse (1974, 193) has written that Aristotle’s version of true friendship is “not cosmological, not metaphysical, not even directly political, but specifically ethical.” For Swanson (1992, 174), this means “friendship is a private activity,” solidifying its role as an activity that contributes to Aristotelian virtue-inculcation, since the private sphere of necessity for Aristotle is what lays the groundwork for freedom in the public sphere.

True friendships are not dissolved easily precisely because virtue is enduring and good people tend to stay good. This does not, however, preclude true friends from ever being useful or advantageous or pleasant to each other. Rather, for Aristotle, the friendship needs to be based in the good and on the search for the good. Moreover, such friendships must always have a substantial level of equality between friends (Aristotle 1985, 1158b30-33): If the friends aren’t equals at the outset, progress toward the good will exacerbate the inequality because the superior friend will not be able to reciprocate the goodwill of his inferior friend, who is holding him back. The friend must truly be “another self” (1170b5-8).

But focusing on goodwill might make us think friendship is a kind of feeling. In fact, Aristotle stresses that friendship is not merely about feelings toward the beloved: “Loving would seem to be a feeling, but friendship a state. For loving occurs no less towards soulless things, but reciprocal loving requires decision, and decision comes from a state; and what makes [good
people] wish good to the beloved for his own sake is their state and not their feeling” (1157b29). Although friendships of pleasure can include romantic love, and true friends may start as lovers according to Aristotle (1985, 1156b1-3; 1157a12-14; 1158a11-12), he still insists that friendship go beyond mere feeling because he sees friendship as requiring rational thinking—even deliberation. (We may even need friends in order to deliberate about public goods. Consider Aristotle [1985, 1112b10] on deliberation: “We enlist partners in deliberation on large issues when we distrust our own ability to discern [the right answer].” These partners will need to be trustworthy and only true friends are immune from distrust [1157a21-25]. This might mean that friends are required to make a deliberative regime successful; here is where the theories of deliberative democracy and friendship intersect.)

And though there is a highest type of friendship, the friendship of those equal in virtue pursuing the good, Aristotle still does not preclude the categories of the useful and the pleasant from being categorized under the rubric of a more general account of friendship. Though he makes space for an elaborate and regulative ideal of true friendship, he looks to various other relationships and calls them forms of friendship, albeit friendships of unequals.

One of his exemplary cases of friendship is the love a mother has for a child too ignorant to love back and reciprocate. In fact, the Greek word Aristotle chooses for ‘love’ in the case of friendship is “a word which is used most often to apply to a mother’s love for her children and other such close family attachments” (Cooper 1980, 308). From this inspiring case of maternal care (with which Aristotle actually begins his account of friendship, but which he only idealizes much later), Aristotle (1985, 1159a27-34) derives the superiority of loving over being loved. Although at first it isn’t clear why Aristotle categorizes such relationships as friendships at all, familial friendships play a crucial role in his political theory. He rejects Plato’s Lysis—where the family is demoted to one of the lowest forms of human relation because it is rarely, if ever, chosen—for a specific political reason. But note this complexity: Friendship, in light of its naturalness, in light of its basis in the family, because it defers to the inclination of the virtuous, may turn out not to be chosen at all. Even true friendship has an aura of ineluctability, which may require the lover to pledge the necessity of the relation.

The Ethics is concerned at its center (Books 5 and 6) with sketching a theory of justice. Whether its locational centrality is indicative of the moral core of the book is a question for another time; at least it hints that the practice of any political science—the Ethics’ overt subject matter—must
confront the problem of justice. Although Aristotle (1985, 1155a26-27) maintains that friends have no need for justice, he is clear that the just still “need friendship in addition.” Precisely because true friendship is so hard to come by, it is foolhardy to rely on it for cosmopolitan largesse. Nonetheless, justice seems to depend on certain lesser forms of friendship; indeed Aristotle does claim at times that all humans have a general (and natural) feeling of friendship towards all other members of the human race, even if such a friendship is one of utility (1155a20-23).

Later in the book, Aristotle ranks various political systems by their relation to a type of friendship delineated in Book 8. Though we might be tempted to conclude that the best political system is conducive to the highest type of friendship, he betrays our expectations in this discussion. We might think that he ought to uphold democracy as the best form of government because he acknowledges that it allows for the highest type of friendship to flourish most easily (1161b10)—especially since we know that friendship is, for Aristotle, what holds cities together (1155a23). But he says in Book 8 that kingship is the highest type of political community and that timocracy is the lowest. How then can we resolve this tension that friendship is worth discussing in a work of political science but the best regime fails to foster the most important kind of friendship and cannot be modeled on its basis?

If politics and justice are more important to Aristotle than friends, then it may be irrelevant that the best form of government is not conducive to the highest type of friendship. But we may not have to conclude this. Martha Nussbaum (1986, 353) argues that Aristotle has a very good reason to distance politics from the struggle for complete friendships:

A city is by nature a plurality of separate parts. To make it one in the Platonic way is to eliminate the bases of political justice and of philia, two of its central goods. For there is no justice between the elements of a single organic whole. The idea of justice as distribution presupposes the separateness of the parties and of their interests. Therefore, even if it were possible to eliminate the bases of conflict, making all citizens say ‘mine’ and ‘not-mine’ as a single body, we should not do this: it would mean the destruction of the values proper to the city [citing Aristotle 1985, 1261a18-22; 1134b1ff; 1261b25-26; 1261b31-32; 1332a36-37].

Notice here that Nussbaum does not address the Emersonian virtue of belonging to which I alluded earlier. Belonging to a polity is quite different from everyone in the polity being ‘second selves.’ This is what politics would be aiming to do if we supposed that Aristotle bases politics on the friendship
of equals. He does no such thing.

Instead, Aristotle uses the familial relationships as models for incomplete friendships and government. In Belfiore’s otherwise exceptional discussion of familial friendship, she overlooks its contribution to politics; she spends most of the article delineating how familial friendship can beget the complete friendship. (See Belfiore 2001, 113-18; 126-31.) Swanson (1992, 28) is right that “the best household is [not] a microcosm or reflection of the best regime. The two cannot mirror one another because their constellations of virtue differ: the household is constituted of unequals; the best regime of equals and unequals.” Thus, Aristotle sometimes distances the analogy I hope to draw here. He writes that “friendship of parent to children is not the same as that of rulers to ruled” (Aristotle 1985, 1158b15) and that “what is just in households . . . is different from what is politically just” (1134b15-17). Precisely because the family structure is, for Aristotle, a single unit that ‘belongs’ to the father, the father cannot truly cause injustice, because he would only be injuring a part of himself: “For there is no unconditional injustice in relation to what is one’s own; one’s own possession . . . is as though it were a part of oneself, and no one decides to harm himself. Hence there is no injustice in relation to them, and so nothing politically unjust or just either” (1134b10-14). This helps explain why Aristotle thinks we can cease being concerned about justice in the realm of friendship. The friend is a second self for whom the demands of justice ring hollow; self-love underlies the protection of the friend with the tenacity of self-preservation. Injury to them is the friend’s greatest offense. Consider Barker (1959, 399): “Deep as the instinct of self-love, in which property is rooted, comes the instinct of loving and caring for others, in which the family is rooted.”

Though I can’t explore it in this context, it is worth thinking about how Aristotle’s argument from possession destroys the consideration of justice in the city. If the ruler and the ruled really ‘belong’ to each other, and if possession implies that we can’t harm our property because harming a ‘part’ of ourselves would be self-destructive, we may have no basis to worry about justice in the city altogether. Familial friends, with true friends, may be above justice in this respect (though they differ in others). This is a devastating critique of Aristotle. I’m not sure there is a good way out, except to say that Aristotle is wrong: self-destructive behavior isn’t as uncommon as he makes it seem—we could have malevolent fathers.

But Aristotle protests too much, does he not, trying to suppress the obvious links between the household, the father, and paradigms for
ruling? Such analogies to situations of rulers and ruled are often explicit in his account, even though ‘we liberals’ may balk at some of its implications; Aristotle too may have been seeking to avoid the dangers of fraternity and paternalism.

Let me lay out how the family serves politics in his worldview, as expressed in the *Ethics*. Aristotle depends upon the household as the site of the inculcation of virtues although “except as he lives in a *polis* a man cannot live a fully human existence, he cannot function as a man” (Jaffa 1972, 74). The family is the realm of habituation, and virtue depends on habituation in the private sphere, even if we suppose that self-actualization really takes place in the public. Household management skills can be learned only within the family; these skills are the stuff of political leadership (Swanson 1992, 23; Aristotle 1985, 1141b31-32). And the relationship of the rulers to the ruled (and vice-versa), like parents to children, will always have an element of inequality. Such inequality notwithstanding, caring and friendship must go both ways, it must have a certain reciprocity of goodwill, to keep the household or regime viable. Households demand natural caring and loyalty, and cities often are in need of this social glue. This may be why Aristotle compares all political regimes to a familial relationship: the kingship mirrors the paternal; the aristocracy, the marital; and the timocracy, the brotherly. Aristotle begs the use of analogical thinking between household relations and political relations all while resisting some of the implications. These implications are my immediate interest here.

The *Politics* has moments that seem to be frontal assaults on this way of peering into the *Ethics*, distancing even familial friendship from the paradigm for ruling; alas, we must try to make the account I am offering cohere with the *Politics*. There, when Aristotle argues against Socrates’s communistic leanings, he cautions against what Bernard Yack (1993, 118-21) calls “The Dangers of Political Intimacy,” the danger of treating the city as one unified household. Yack argues—taking the *Politics* as his source—that we should reject any political theory that takes too seriously aiming to inspire fraternity and comradeship among citizens, even if it seems “attractive” and “humane” (Aristotle 1984, 1263b15). Not only is such an ideal unreachable, it is also undesirable. If this is right, how can I read the *Ethics* to the contrary? Let us get clear on the *Politics’* perspective.

First, there Aristotle argues that political friendship must be unlike relations of family and true intimates. It is plainly impossible to have too many intimates; there is a low ceiling on the number of true friendships a person can hope to have in a lifetime. Moreover, the political relation is often
going to rely upon needs and means, an unacceptable basis for true friendship; economistic thinking, often suited to political and legal justification, has no place in Aristotle's true friendship. This argument coheres easily with what we know from the *Ethics* and does no work against the effort here to glean some political theory from his theory of familial friendship; as I’ve noted, political friendship is not meant to be correlated with the highest type. But Aristotle (and Yack’s reading of him) has more to suggest about the peculiarities of the familial relation: Yack (1993, 119-20) argues that it was “Plato’s goal … to use the depth and intensity of family relations to overcome dissensions among citizens. But when we eliminate the sense of our ‘own’ attached to natural families, we also eliminate that depth of intensity.” If the city is one big family, we can be sure to dilute the natural intensity of such a relation. Aristotle seems to be saying, then, against my inclination of how to read him, that the sense of belonging to what is one’s own cannot do much work in a community as large as the *polis*, and, *a fortiori*, as large as a modern regime.

Aristotle has a further argument in the *Politics* against modeling political friendship on fraternity. He writes against common ownership as it exists in families, “for it is precisely those who possess things in common and share whom we see quarreling most” (Aristotle 1984, 1263b22-26). (Remember that this is bizarre in light of the presumed benevolence of family relations in the *Ethics.*) Brothers tend to fight about what they own in common, and argue about inheritance. This is precisely what is undesirable in the political relation, where ‘concord’ is a primary virtue, where shared preunderstandings contribute to the possibility for a healthy political life, even if it is an agonistic one where legitimacy and power structures are challenged. Demanding that citizens treat one another like brothers threatens to escalate conflict to the degree of family disputes—ones known for their viciousness and imperviousness to rational argumentation, even when the brothers don’t inspire the ethnic conflict we trace back to Isaac and Ishmael. To be sure, arguments between parents and children are not necessarily any less heated. By arguing against using the family as a model for political friendship, Aristotle tries to avert the intense conflict that surfaces only when a loved one betrays us.

Nonetheless, Aristotle does, in the *Ethics*, use familial relations to model his types of government. Can the mapping be made sense of in light of the *Politics*? The arguments of the *Politics* do not, after analysis, argue against my reading; instead, they argue against the excesses of taking the analogy too far, as he thinks the arguments of Plato’s *Republic* do. When we
consider the first argument from the *Politics* adumbrated above, we have recourse to the rejoinder that Aristotle’s program is theoretical and analogical, not policy-oriented. Though Aristotle does allow the theoretical modeling to have practical import, it should be obvious that making a theoretical point about the import of a particular kind of friendship in a regime does not prescribe that we use that model as a litmus test for any particular policy. Aristotle’s arguments in this instance are against communism, not against making rulers and ruled friends in some nonfictively attributable sense: “It is evident … that to seek to unify the city *excessively* is not good” (1261b10, my emphasis). The attempt to inculcate a sense of belonging may fail, but it is certainly not undesirable; it may be indispensable.

The second challenge from the *Politics* is also no real threat to Aristotle’s encouraging a form of friendship to induce a sense of belonging in a larger unity. As it turns out, he does shy away from modeling his ideal regime on the basis of a brotherly love—precisely what may have been deduced from his exposition of in-family feuds. Even though fights between fathers and sons show some of the same signs of competition, in such relations there is a general respect afforded to the father; thus such relations are more dependable in terms of amicable settlement and largesse from the father figure. To lift a hand against a father is the original sin; treason is the primary political vice that no regime can tolerate. (See Belfiore 2001, 126 [citing Aristotle 1985, 1159b34–1160a8, where Aristotle expresses that it is worse to strike a father than anyone else]).

Regardless of whether the *Politics* takes two steps backward with its cautionary tone, Aristotle still puts forward the paternal friendship to serve as an inspiration for proper legislation. Since he thinks (in the *Ethics* anyway) that kingship is the best form of government, the best government corresponds to the friendship of unequals displayed paradigmatically by the father-child relation. On Arendt’s (1958) reading of Aristotle, where the private sphere of the family is a relation of necessity, the household still achieves ‘primordiality’ for man; this gives it conceptual priority over the city, even supposing that the city is ultimately the source of the really important goods. And just as a good (benevolent) father can maintain a familial ‘community’ wherein members care for one another, so too can a (benevolent) leader modeled after a father figure maintain a political community that embodies the virtue of friendly care, civic virtue. The centrality of even unequal friendship as a basis for justice is further evidenced when Aristotle (1985, 1162a30) asks, “How should a man conduct his life towards … a friend? That appears to be
the same as asking what the just conduct of their lives is.” He collapses the search for the just into a question of how to treat friends. From a disclosure of how to treat various types of friends, we can discover the contents of Aristotelian justice.

To get slightly more specific, Aristotle’s discussion of disputes or complaints explores exactly why the political relation is modeled on the friendship of unequals, the friendship of fathers and sons. In the case of the friendship of equals, Aristotle (1985, 1162b5-15) notes that “accusations and reproaches arise only or most often in friendship for utility,” and rarely arise in friendships for pleasure and virtue. Since political friendships for him have a rather substantial utilitarian function, on Aristotle’s model complaining should be fairly common: “for these friends deal with each other in the expectation of gaining benefits. Hence they always require more, thinking they have got less than is fitting; and they reproach the other because they get less than they require and deserve. And those who confer benefits cannot supply as much as the recipients require” (1162b17-20). Aristotle aptly describes the political problem of resource allocation among friends as a problem of seeking redress through complaining. The practice of justice is dependent on complaint and negotiation. In the case of unequal friends, there is a neat solution because each of the friends, both the ruler and the ruled, “would seem to be correct in what he expects, and it is right for each of them to get more from the friendship—but not more of the same thing. Rather, the superior person should get more honor, and the needy more profit” (1163a37-1163b5).

Aristotle’s discussion of disputes within the friendship of unequals is a section by and large devoted to consideration of political life. And, appropriately, he ends this section of the Ethics by suggesting something about his paradigm case of the friendship of unequals—fathers and sons. About returning the good and virtue of parents with honor, he writes that “no one could ever make a return corresponding to their worth, but someone who attends to them as far as he is able seems to be a decent person” (1163b15-20). Just as with government, full loyalty is too much to demand. But someone who pays his respects through civic virtue is a decent person. This inequality between the honoring and the honored might lead us to think that government need not be responsive, just as Aristotle remarks that “a son is not free to disavow his father, but a father is free to disavow his son” (1163b20). If we follow the analogy, Aristotle suggests that a ruler is free to ignore his constituents, because they owe him more than he can ever be said to owe them. However, as he closes this section, he recoils: “No one would ever withdraw from a
son”—or a subject—“who was not already far gone in vice … It is human not
to repel aid” in the case of a father’s friendship with his children (1163b22-25). For Aristotle, the paternalistic government is a friend who can be counted upon not to “repel aid” when his unequal subjects complain for better redistri-
bution of resources.

Aristotle is able to construct a political community from the
conception of the unequal friendship. And though the highest type of friend-
ship is obviously the regulative ideal for friendships, namely the friendship
of equals for the good, another type of friendship, namely the friendship
of unequals, is the paradigmatic case for the universalization of ethics in a
political community. Aristotle’s politics encourage him to embrace lesser
forms of friendship, even though he also elaborates upon precisely the strong
conception of friendship that Montaigne inherits.

II. MONTAIGNE

“Of Friendship” begins by calling attention to the design of
the artist’s work: “As I was considering the way a painter I employ went about
his work, I had a mind to imitate him. He chooses the best spot, the middle of
each wall, to put a picture labored over with all his skill, and the empty space
around it he fills with grotesques, which are fantastic paintings whose only
charm lies in their variety and strangeness” (Montaigne 1958, 135, my
emphasis). Of course, the middle chapter of Book 1 of the Essays is the
chapter to follow “Of Friendship.” And instead of telling us himself what is
‘central’ to his book, Montaigne wants to let his friend Etienne de La Boétie
speak for him through a treatise his late friend wrote in his earliest years. The
treatise itself, On Voluntary Servitude, is a radically republican document
endorsing tyrannicide, encouraging the overthrow of any monarchical regime.
Although Montaigne ultimately makes excuses for why he cannot include the
text within his own book after all, it is difficult not to think that this document
contains the seeds of Montaigne’s true political philosophy. The anticipated
placement of the document at the center of Book 1, as well as Montaigne’s
constant attempt to suggest that he and La Boétie were of one mind have led
scholars to treat the republican leanings articulated in On Voluntary Servitude
as Montaigne’s own. Although such a philosophy does not cohere with the rest
of the Essays’ inclination toward prudential deference to the reigning regime
(nor with what we know of Montaigne’s political activity), some scholars have
even gone on to suggest that Montaigne in fact composed pieces (e.g.,
Armaingaud 1906) or all (e.g., Martin 1998) of the republican document him-
self. Particularly suggestive is the similarity of its own philosophy of friendship to the thoughts contained in “Of Friendship.”

I wish to leave aside this scholarly debate about Montaigne’s *politics*, much the way I ignore an extended treatment of Aristotle’s *Politics*. But the intended structural contiguity of a political treatise with Montaigne’s discussion of friendship presents a similar question to the one I posed in the case of Aristotle. Why does a discussion of friendship take place in the same breath as a conversation about politics? I believe there is also a relationship between politics and friendship in Montaigne that is worth exploring.

Montaigne’s (1958, 136 [“Of Friendship”]) indebtedness to Aristotle is overt:

There is nothing to which nature seems to have inclined us more than to society. And Aristotle says that good legislators have had more care for friendship than for justice. Now the ultimate point in the perfection of society is this. For in general, all associations that are forged and nourished by pleasure or profit, by public or private needs, are the less beautiful and noble, and the less friendship … Nor do the four ancient types—natural, social, hospitable, erotic—come up to real friendship.

Montaigne’s typology is more rigorous in its separation of true friendship from other types, but his endorsement of a true friendship that stands above others is classically Aristotelian.

Montaigne maintains many more Aristotelian features of friendship. For example, in Montaigne (1958, 139 [“Of Friendship”]) possession disintegrates between friends, leaving no room for injustice: “neither of us reserved anything for himself, nor was anything either his or mine.” Montaigne’s embraces “Aristotle’s very apt definition” of friendship, remarking that friends are “one soul in two bodies” (141). For both, the friend is a “second self” (143), but Montaigne takes the demands of friendship slightly further than Aristotle by claiming that the true friend can “dissolve[] all other obligations” (142).

Indeed, this dissolution causes problems for Montaigne when he must confront the relationship of friends to the city. According to Allan Bloom (1993, 413), Montaigne’s “friends are more dedicated to each other than to the polity, the goals of which they may not share.” This view coheres with Montaigne’s (1958, 140 [“Of Friendship”]) overt statement about Blossius and Gracchus: “They were friends more than citizens, friends more than friends or
enemies of their country.” As Bloom (1993, 413) has put it, “the pair of friends is a community of its own which may or may not be in accord with the body of citizens as a whole. Friendship helps explain what is wanted in politics but also leads to an awareness that politics cannot arrive at that desired end.” Bloom seems to invoke the authority of Montaigne to make a case for why friendship will always expose the impoverished nature of civic bonds.

However, another feature of Montaigne’s friendship that seems rooted in Aristotle helps him with the confrontation of the city and the friend: his notion that friends always seek the good together. When analyzing Blossius’s answers to Laelius’s inquisition, Montaigne makes a commitment to friendship as a pursuit of the good. After Gracchus is captured, his best friend Blossius is asked whether he would obey his friend’s orders to burn down Roman temples. Without flinching, Blossius replies that his friend would never ask such a thing of him. When further pressed, he admits that he would do anything for his friends, even something against the city. The last answer, the final preference of the friend to the city, upsets Montaigne, because he argues that Blossius “should not have abandoned the assurance he had of Gracchus’ will” (Montaigne 1958, 140 [“Of Friendship”]). He suggests that teams of friends are “guided by the strength and leadership of reason, as indeed it is quite impossible to harness [friendship] without it” (140). Such rationality, like Aristotle’s deliberation, ensures virtue: “If their actions went astray, they were neither friends to each other, nor friends to themselves” (140). La Boétie (1998, 220), in his juxtaposition of a discussion of friendship with an endorsement of revolutionary politics, had this similar, though less likely genuine, approach: “Friendship is a sacred word; it is a holy thing. It never occurs except between honorable people … It maintains itself not so much by means of good turns as by a good life. What renders a friend assured of the other is the knowledge he has of his integrity.”

Surely, this could have been Abraham’s reply to God when God asked him to sacrifice his son: “No friend of mine would make such demands.” If Abe were a friend of God’s (or of Isaac’s), he should have known that such a request was not made in earnestness. Bob Dylan’s imagining of Abe’s response in *Highway 61* is on point: “God said to Abraham, go kill me a son. / Abe said, Man, you must be puttin’ me on.” Montaigne inspires this kind of thinking about the story of the Binding of Isaac when he transitions from Blossius and Gracchus to a discussion of a hypothetical friend asking him to kill his daughter. Note that it isn’t clear that Abraham passes his test: in the next portion of the Bible, his wife Sarah dies and his son is taken from him for three
years. Can we really imagine the justice of this terrorism launched against Abraham if he was the paragon of faith the tradition urges? I digress.

Montaigne relies on Aristotle’s idea that friends can neither do wrong nor encourage each other to do wrong, because friendship aims toward the good. Although La Boétie’s treatise is clearly not conservative, Montaigne (1958, 144 [“Of Friendship”]) still testifies about his friend that “he had another maxim sovereignly imprinted in his soul, to obey and submit most religiously to the laws under which he was born. There was never a better citizen.” In spite of the demands of friendship, politics may go on undisturbed. Montaigne can insist on friendship’s dissolution of other bonds, because the demand of the good is still in force; the friendship is a private affair. Even if Montaigne was politically (or esoterically) inclined to hope for the destruction of the monarchy, and even if his friendly conversations with La Boétie often included substantial political complaining, Montaigne and La Boétie’s joint commitment to the good keeps them in check. After all, Montaigne chooses not to publish the inflammatory treatise, leaving it to later generations to take up the revolutionary project at a riper time. Of course, Jon Elster (1998, 16) notes that “as observed by George Soros, … an attempt to take an issue off the agenda is likely to place it even more firmly on the agenda.” Most of the Straussian readers of Montaigne (like Platt, Martin, and Schaefer) essentially use this insight to argue that Montaigne, by not including On Voluntary Servitude in the Essays, forces his readers to read the treatise more carefully when they do get their hands on it. (See, e.g., Platt 1998; 1975; Schaefer 1998; 1990; 1975.) I suppose that might be right; it was certainly true for me.

Montaigne has very high expectations for the bonds of friendship; very few people can achieve such heights. Not only do such friendships seem to be very rare (“So many coincidences are needed to build up such a friendship that it is a lot if fortune can do it once in three centuries” (Montaigne 1958, 136 [“Of Friendship”]), but we are prone to feel that there is something unnatural in such high standards. Nonetheless, Montaigne suggests that friendships are fundamentally natural. Indeed, there is a sense of ineluctability about Montaigne’s explanation of his friendship with La Boétie: “Because it was he, because it was I” (139). When he talks about his own susceptibility to friendship, he invokes his “essential pattern,” claiming to have been “born for company and friendship” (625, my emphasis [“Of Three Kinds of Association”]). Allan Bloom (1993, 419-21) trumpets Montaigne because “the appeal” of his theory of friendship “consists in its naturalness, in its being
the result of primary inclinations … What Montaigne shows us is a natural connection, meaning a real concern for another that is not based on the overcoming of natural desire, but is itself a natural desire.” Bloom’s Montaigne has friends due to his natural inclinations, though he refuses to see even a trace of self-interest as a basis for friendship. This refusal is the mistake Aristotle does not make: Aristotle knows that deep connections to friends, second selves, necessarily cause a conflation of self-interest and other-regarding interests. Nor does Montaigne go as far as Bloom thinks: Although Montaigne’s friends achieve a “fusion of … wills,” regard for a friend must be admixed with self-interest precisely because each holds “absolutely the reins of each other’s inclination” (Montaigne 1958, 141 [“Of Friendship”]). Montaigne is closer to Aristotle than to Bloom’s image of him on this point, I think.

But the discussion of ‘naturalness’ highlights another feature of Montaigne’s theory of friendship that fails to be Aristotelian enough. Like Plato, Montaigne counterpoises friendship to family. As he writes of his first encounters with La Boétie, he implicitly recalls Plato’s treatments of philia. The puzzle of friendship, an analysis of friendship, must always begin to be pieced together from Plato’s Lysis. There, Socrates begins his inquiry by trying to encourage Hippothales to reveal with whom he has fallen in love. But Hippothales blushes as he tries to keep his beloved’s name private. Friendship begs privacy, but Socrates demands that the name be publicized; Plato publishes the name and entitles the dialogue with the name of the beloved. What’s in a name? Derrida (1997, 78) tells us: Lysis “designates, as if by chance, unbinding, detachment, emancipation, untangling, the tie undone or dissolved by analysis, solution—indeed, absolution, even solitude. Here we have an inaugural dialogue on friendship. Now, what is it called? … Its title quotes a proper name which commonly describes a knot undone, while engaging you in the analysis of what it means to be solitary.” When Montaigne writes, “We embraced each other by our names,” he makes a subtle reference to the naming issue connected with Plato’s Lysis; when he writes about meeting La Boétie at a “great feast” (139), we are led to think of the banquet of The Symposium. Like Plato, so much of Montaigne’s opposition to family comes from his distaste for relationships of civic duty and natural obligation. Free will lies at the center of Montaigne’s thinking about friendship. When we “are so caught in our natural inclinations,” we cease to be able to be friends at all (621 [“Of Three Kinds of Association”]). Yet friendship’s dependence upon natural inclination is a well-supported theme in the Essays. How can this tension be resolved?
In Montaigne, this tension stands as a real challenge to his theory, a challenge met by Aristotle. It is common knowledge that the Greek notion of a friend, a _philos_, is much broader than our current understanding (perhaps [too?] indebted to Montaigne). In Greek life, family relations were often included under such a rubric, even though Aristotle’s particular contribution was to isolate a realm of true—equal—friendship. But Aristotle’s less drastic separation of the true friendship from the lesser ones allows him precisely _not_ to be presented with the contradiction inherent in the naturalness of the friend in spite of the ideal of free choice. By not needing to show that families are not friends, Aristotle avoids Montaigne’s difficulty. Aristotle’s account relies heavily on habituation, on the constellation of nurture and nature, so he doesn’t place free will at the center of his theory of friendship. Precisely by using the love for the mother as an ideal, Aristotle’s account leaves us with fewer questions about the relationship of the citizen to the motherland or fatherland.

Like Aristotle (and Plato for that matter), Montaigne juxtaposes his discussion of true or real friendship with a discussion of family. But Montaigne’s account like Plato’s is far less sympathetic than Aristotle’s to the family relation, in spite of his great love for his father. He refuses Aristotle’s friendship of unequals, harking back to Plato’s _Lysis_, where the first task of a discussion of friendship must be to break apart the conception of the family as paradigmatic for friendship. Just as the marital association must be ruled out because of its admixture of _eros_ with friendship, so the father-son relationship is too agonistic for Montaigne to serve as an appropriate model. In an anticipation (or application) of the Oedipal complex and its _agon_, Montaigne draws attention to various customs where children kill their fathers and customs where fathers kill their own children—because “by nature the one depends on the destruction of the other” (136 [“Of Friendship”]). (See generally H. Bloom 1982; 1973.) Precisely because such a competitive spirit seems unacceptable in friendship, Montaigne disallows such relations to be considered under the rubric of friendship. Despite Jürgen Habermas’s (1989, 52) depiction of Greek public life, surely, for Aristotle, such _agon_ can be a healthy feature of political life. And because political life depends so inextricably upon friendship, Aristotle admits it in a way that Montaigne doesn’t: Montaigne’s general conservatism in the face of civil war makes him unlikely to endorse conflict of the agonistic sort in the public sphere.

I do not mean to suggest that Montaigne’s view of friendship is monolithic. Montaigne acknowledges “ordinary friendships” of the sort
Aristotle includes in his account; only “a single perfect friendship … has in truth given [him] a certain distaste for the others” (Montaigne 1958, 623 [“Of Three Kinds of Association”]). Montaigne’s friendship with La Boétie brings him to denigrate “common friendships.” He thinks such friends are never to be counted upon because “the knot is not so well tied that there is no cause to mistrust it” (140 [“Of Friendship”]). Drawing upon Aristotle (1985, 1157a21-25) again, who indeed thought mistrust was rampant in lesser forms of friendship: “O my friends, there is no friend” (Montaigne 1958, 140 [“Of Friendship”]). In spite of his dissociation from lesser forms of friendship as a travesty of the real thing, Montaigne includes in his three favorite kinds of ‘association,’ friends, ladies, and books. But, even in this list, the family is excluded from consideration of his three “particular occupations. [He] will not speak of those that [he] owe[s] the world out of civic duty” (630 [“Of Three Kinds of Association”]). Presumably, the two ‘missing’ associations here are the family and the state.

But what are Montaigne’s thoughts about family, even if it is excluded from the realm of friendship? Let me be more precise about Montaigne’s attitude toward the family. In “Of the Affection of Fathers for their Children,” Montaigne praises Madame D’Estissac for her maternal and unconditional love for her children, seeing in this love relation something noteworthy, worthy of mimesis (278-79). In Montaigne’s opinion, “after the care every animal has for its own preservation and the avoidance of what is harmful, the affection that the begetter has for his begotten ranks second” (279). Of course, this contradicts the findings of the customs Montaigne cites in “Of Friendship,” but he does remark, consistently in this case, that children do not feel as warmly towards their fathers. Again here, Montaigne cites Aristotle for the proposition that “he who does good to someone loves him better than he is loved by him; and that he to whom something is owed loves better than he who owes; and that every workman loves his work better than he would be loved by it, if the work had feeling” (279). Hence, loving in the context of parent is ‘better’ than the love afforded them by their children.

Montaigne’s critique of using the family as a basis for politics is implicit here: If the rulers were indeed benevolent and loving paternal figures, the citizens would be just as likely to hate the government as they would treat it with respect and love. But there is also no reason to expect fathers to be benevolent. Although Montaigne clearly loved his father (574-98 [“Of the Resemblance of Children to Fathers”]), he still blames him for his gallstone and condemned the “accidental privilege of fortune” and hereditary
entitlements (623 [“Of Three Kinds of Association”]). He also blames various depravities in children on “the avarice of fathers” (281 [“Of the Affection of Fathers for their Children”]), indicating his distaste for the familial organization. Though Montaigne had great respect for his own father, indeed calling him “the best father that ever was” (137 [“Of Friendship”]), he felt that natural obligations lessen and vitiate the possibility for friendship. Note that we hear precious little about his mother and know that he had bad luck with his own children, considering that “they all die on [him] at nurse” (281 [“Of the Affection of Fathers for their Children”]).

Nonetheless, in Montaigne’s elaboration of his friendship with La Boétie, he does eventually suggest that they were like brothers, a familial order of a different kind, one that defies Plutarch’s assessment of his own brother: “I don’t think any more of him for having come out of the same hole” (136 [“Of Friendship”]). However, even in this instance Montaigne is sure to distance friendship from the association with ‘brotherly love.’ Brothers have problems with ownership, and often must clash, again testifying to an agonism within brotherhood unbecoming of friendship. Montaigne seems to be reacting to some of Aristotle’s arguments in the *Politics* about the problems with brotherhood and brotherly love, so he argues that friends must “soften[] and loosen[] the solder of brotherhood” (136).

But Montaigne makes an interesting move as he expresses his ambivalence about brotherhood. He suggests that in an ideal family, concord can be achieved. This achievement is strikingly similar to Aristotle’s ideal hope for civic friendship. In his account of ideal virtue- or character-friendships, Aristotle suggests that concord is a necessary feature of friendship. Yet, when Aristotle (1985, 1167a26-1167b5) defines concord, he immediately appeals to what it would mean to have concord in a city: “A city is said to be in concord when [its citizens] agree about what us advantageous, make the same decision, and act on their common resolution … Concord, then, is apparently political friendship, as indeed it is said to be; for it is concerned with advantage and with what affects life [as a whole].” Montaigne echoes this potential for political friendship, testifying that concord can be achieved in the family despite the agon he knows is latent in the family structure. This suggests that he appreciates why Aristotle uses the family as the basis for a city, but also that he is unwilling to follow Aristotle in collapsing the distinction between the family and the friend. Montaigne (1958, 138 [“Of Friendship”]) abhors “Greek love” because of the “disparity in age” and “function.” Of course, “Greek love” here refers to pedophilic relations common to the Academy, but it underscores
Montaigne’s general aversion to the friendship of unequals, of which the family is the primary example in both Aristotle and Montaigne. In the essay, however, it isn’t Montaigne who actively abhors the practice. Instead, he endorses the judgment passively (“Greek love is justly abhorred by our morality”). This is a subtle difference, but one made much of by Platt (1998, 59-79). Platt wants to make sure we know that Montaigne wanted to sleep with his friend. Maybe. But too many assume Jonathan and David were lovers—and have forced an interpretation that may be unwarranted. (See Brain 1977.)

His distaste for the family notwithstanding, Montaigne has some good advice for families, especially if one were inclined, with Aristotle, to use family as a basis for political organization. Montaigne writes: “It is wrong and foolish to prohibit children who have come of age from being familiar with their fathers … hoping thereby to keep them in fear and obedience. For that is a very futile farce which makes fathers annoying to their children and, what is worse, ridiculous” (284-85 [“Of the Affection of Fathers for their Children”]). This directive encourages those in control of a household to be receptive to communication and familiarity. The paternal (or paternalistic) ruler can afford no less if he wants to keep his regime together. This sort of advice, while having normative import for liberalism now, was initially uttered to rulers for prudential reasons by thinkers with Aristotelian inclinations like Niccolò Machiavelli and Jean Bodin: “The king cannot refuse in advance to hear the complaints of his subjects: ‘The prince cannot so bind his own hands, or make such a law unto himself [to] prohibit his grieved subjects from coming unto him with their humble supplications and requests.’ Once he has heard a complaint, the prince can legally do as he wishes; but he cannot refuse to listen beforehand because this would be an act of self-destruction” (Holmes 1995, 113-14 [citing Bodin, *Six livres de la république*, I, 10, 169]). In fact, the airing of complaints is an aspect of the relationship of the ruler and the ruled that I suggest partly inspires Aristotle to draw his analogy and include friendship within the political sphere.

In Machiavelli, we might look at the following passages: “One who becomes prince with the support of the common people must keep them as his friends … A prince must have the friendship of the common people … He should appear, upon seeing and hearing him, to be all mercy, all faithfulness, all integrity, all kindness” (Machiavelli 1979, 109-35). To be sure, Machiavelli’s use of friendship is political in the worst sense of the word. If we believe Montaigne to be the great anti-Machiavellian that Shklar does, perhaps
we might point to Machiavelli’s espousal of political friendship as part of the reason Montaigne resists Aristotle so—it can lead to Machiavellianism.

Receptivity to conversation and discussion also lay at the center of Montaigne’s thinking on friendship, consonant with Aristotle’s (1985, 1157b12-14) invocation of the saying, “Lack of conversation has dissolved many a friendship.” Montaigne (1958, 136 [“Of Friendship”]) claims that “friendship feeds on communication,” noting that his “essential pattern is suited to conversation,” a feature that makes him ripe for friendship (625 [“Of Three Kinds of Association”]). He commits an essay to the ‘art of discussion.’ There, he prizes “a manly fellowship,” which in this case (very suggestively) denotes “a friendship that delights in the sharpness and vigor of its [verbal] intercourse, as does love in bites and scratches that draw blood. It is not vigorous and generous enough if it is not quarrelsome, if it is civilized and artful, if it fears knocks and moves with constraint” (705 [“Of the Art of Discussion”]). (The homoerotic overtones of this ‘manliness’ are overt and may distract the reader from my point in citing it. The passage suggests Montaigne’s endorsement of open communication in friendship, one that may be contestatory. Nussbaum makes much of Alcibiades’s desire to ‘open up’ to Socrates, another suggestion laden with sexual anxiety.) When Montaigne is investigating the ends of the association of friendship, he remarks that it is “simply intimacy, fellowship, and conversation: exercise of minds, without any other fruits” (625 [“Of Three Kinds of Association”]). And when he assesses the importance of openness in relationships, he writes: “As I know by too certain experience, there is no consolation so sweet in the loss of our friends as that which comes to us from the knowledge of not having forgotten to tell them anything and of having had perfect and entire communication with them” (287 [“Of the Affection of Fathers for their Children”]). Even La Boétie (1998, 198) prizes this aspect of humanity: Nature “has given us this great present of voice and speech so that we can become acquainted with one another.” Montaigne endorses conversation and dialogue as quintessential for friendship. He sees in friendships the relationships that inspire the kinds of conversations that most interest him, that make him feel the most free and most invigorated. Although good conversations make friends break a sweat, the ultimate aim, the friendly love of wisdom, pacifies.

Yet, Montaigne’s conversational ideal carries over to many different and lesser forms of association—he even thinks it is appropriate (contra Plato) between master and servant (Montaigne 1958, 623 [“Of Three Kinds of Association”]). Presumably, Montaigne would agree that conversa-
tion is a virtue between the ruler and the ruled even if he wouldn’t demand it the way he does of friendship. If conversation is such a virtue of political life for Montaigne, then he preserves and endorses one of the most important political activities between the rulers and the ruled: listening to complaints. By overtly endorsing communication and contestatory conversation even among unequals, he allows, after all, for a conversational and deliberative fellowship among all kinds of unequals. Since not only prudence, but also legitimacy, demand that rulers heed the calls of their constituency, Montaigne makes room for this prerequisite of liberal republicanism without appeal to familial friendship.

III. Conclusion

Without seeing the family as a form of friendship and letting the analogy do some work as Aristotle does, Montaigne is left without another part of (republican) political life to which I have argued Aristotle is sensitive. Without maintaining the sense of possession associated with fathers or brothers, without a theory or model of politics that accounts for citizens ‘belonging’ to the whole, Montaigne would be left without a rejoinder to the Emersonian challenge. In Montaigne’s anxious wresting apart of friendship and politics, the family’s contribution to a modeling of the polity based on friendship is also rejected. Because of his purism, the friendship of unequals is not admitted into the rubric of friendship. To endorse conversation without any sense of trust, without a level of friendship, will ensure a superficial hearing, a public airing in a forum where no one listens. If ‘belonging’ doesn’t obtain, conversation risks becoming ‘idle talk’ funneled through bureaucratic administration. Montaigne’s casual rejection of Plato’s recommendation against familiarity between master and slave surely doesn’t go far enough: it is naïve to imagine that such a relationship of unequals will ensure that servants’ complaints are lodged somewhere.

But Montaigne gestures in the liberal republican direction. Montaigne’s commitment to rulers listening to complaints goes beyond that of his fellow Aristotelians, Machiavelli and Bodin. Machiavelli and Bodin are satisfied to have their princes hear complaints to avoid their own self-destruction. Montaigne demands that masters listen to subjects because “it is inhuman and unjust to make so much of this accidental privilege of fortune” (623 [“Of Three Kinds of Association”]). Indeed, for Montaigne, “the souls of emperors and cobblers are cast in the same mold” (350 [“Apology for Raymond Sebond”]).
Yet Montaigne lacks a textured sense of the friendship of unequals—one that could bring about such listening. Aristotle’s understanding of this need helps the republican find a way to satisfy this liberal need, to help ground this liberal right. ‘Paternalism,’ on this theoretical reading, allows the practical instantiation of a functioning republic of citizens who belong to each other and to the city.

I shall hardly end this expedition with a call for more governmental paternalism. Instead, this is one upshot: we do ourselves no great service by being too purist in our conceptions of friendships. Our private virtue- or character-friendships may enrich us in a way so few things can; but we must remember that the public trust which undergirds our right to have a private life altogether is based in a different—but no less real—friendship of unequals. Aristotle never debased this form of friendship and we shouldn’t either.

REFERENCES


Book 18 of Montesquieu’s *Spirit of the Laws* consistently defies explication. Its thirty-one chapters seem to most commentators to constitute a heterogeneous mélange, the parts bearing no or little relation to the whole—or, to express it still more precisely, there being no whole at all, there are consequently no parts. (Book 18 is the only book the number of whose chapters equals the number of books in the entire work. Its interpretative history parallels the history of the interpretation of *The Spirit of the Laws*. It is notable, moreover, that the last chapter added, chapter 28, Montesquieu prepared as he approached his deathbed, which act made the total of thirty-one chapters.) Thus, each chapter is treated as *sui generis* or, at most, as related only to a handful of others. The purpose of this account is to disclose a design, both within Book 18 and within *Spirit of the Laws* as a whole.

**The Place of Book 18 in the Order of Spirit of the Laws**

Book 18 opens with the Thucydidean declaration that the bounty or stinginess of the terrain determines respectively a people’s tendency toward, on the one hand, dependence and subjection or, on the other hand, industry and liberty. After illustrating this principle with a few following chapters, Montesquieu declares in his own name (chapter 10) that a people’s mode of subsistence determines the number of inhabitants in a land (or what is the same thing, the extent of territory required to support them). But such distinctions eventuate also in differences in the civil and political conditions of peoples (chapters 13-21). Finally, Montesquieu explains the derivation of what is ordinarily called the *Salic law* from the savage or barbarian circumstances and mode of existence of the Germanic peoples (chapters 22-31).
Most of the difficulty in Book 18 derives from the final ten chapters, twenty-two to thirty-one, which constitute a vigorous and ambitious re-statement of the primitive origins of French monarchy, under the guise of re-stating the origins of Salic laws. Thus, at least, the matter is generally conceived by commentators, who observe correctly that those chapters did not figure in the initial manuscript and, moreover, seem to every appearance to be related to the historical material in Book 28 and Books 30 and 31. Those last books also seem to have been postscripts to the original conception of the entire manuscript, which otherwise had concluded with the book on “The Manner of Composing Laws.” The final words of that provisional conclusion identify as “legislators” Aristotle, Plato, Machiavelli, Thomas More, and James Harrington.

This produces a difficulty that may be stated as follows: the detailed discussion of the origins and revolutions of French feudal law and theory seems to overwhelm The Spirit of the Laws, which is otherwise a general discussion of the conditions and resources of political founding. Moreover, that detailed history swamps the intervenient discussion (Book 29) of the “Manner of Composing the Laws.” Thus, political history seems to take precedence over political philosophy, which the teasing reference to philosophical writers as legislators (instead of the Moseses, Lycurguses, and Solons elsewhere discussed in the work) would not seem to have warranted.

Further, the completion of Book 18 by a similarly lengthy discussion of the Salic laws as a possible source of French feudal laws and theory seems both misplaced in relation to the political geography that is the initial point of Book 18 and also oddly detached from the material in Books 28, 30 and 31, with which it is logically and historically connected. Accordingly, the discussion of terrain and modes of subsistence that prefigure a very modern political or social geography has been aborted by what seems a whim or fancy. In place of completing the assessment of the extent to which material/physical circumstances condition moral or political attainment, Montesquieu wandered onto the disputable terrain of the relationship between civil and political law. (Brethe de la Gressaye argued that the Salic laws, created for individuals—and hence civil law—nevertheless extended to determine succession to the crown—and hence political law—which is the very point Montesquieu set out to refute [Montesquieu 1950-61, 3:279].)

It is difficult to repulse the substantial weight of learned critics, from Voltaire and Crévier to Condorcet and Prichard, to Brethe de la Gressaye and Barrière, in order to establish the appearance of Montesquieu’s
text—namely that relations of property are fundamentally pre-political and that the circumstances conditioning them bear significantly upon the political prospects of human societies (see Addendum 1). Nevertheless, it is important to accomplish exactly that in order to justify the presentation of a straightforward reading of Book 18 as demonstrating the precise point at which mankind transitions from climate or material determinism in general to particular (and therefore local) political deliberation. Moreover, the doing so precisely fulfills the promise extended in Book 14, namely, that morals could resist climate, and thus closes finally the discussion of material determinism as an alternative explanation of politics and thus a limit to political deliberation. From Book 19 to the end (Book 31) the discussion focuses on the character or “genius” of the people, commerce, the moral foundations of fecundity, religion, the influence of laws, and history, all which discussions are justifiable to the extent that a case has been made for particular political deliberation.

Taking Montesquieu as our guide, we may consider the first of the problematic books (namely, Book 28, without which the necessity to interpret Book 18 under rules of logographic necessity would not have been obvious). Book 28 immediately returns us to Book 18 and establishes the difference between that discussion and the final historical books. The difference, in a word, is that between pre-literate constitutionalism and literate constitutionalism. (Though Montesquieu does not mention Plato’s Phaedrus, we will see that Montesquieu’s concern with the functions of writing and reading is no less pertinent than Plato’s concern with the central question of the lawgiver.)

Initially the epigram to Book 28 (quoting Ovid, Metamorphoses, I, 1-2: In nova fert animus dicere formas Corpora) cues the reader: “My spirit leads me to speak of forms changing into new bodies.” (Unless otherwise noted, all translations are my own.) Montesquieu immediately announced the change thus anticipated: “The Franks having come out of their lands, they caused the wise ones of their nation to write down the Salic Laws” (Montesquieu 1950, 28.1). He footnoted this opening sentence to underscore the emphasis on “write down”:

See the prologue of the Salic Laws. M. de Leibniz says, in his treatise on the origins of the Franks, that this law was made prior to the reign of Clovis [481-516 CE]; but it could not have been before the Franks should have come out of Germany; they did not at that time understand the Latin language. (Montesquieu 1950, 28.1n)

Finally, not much beyond this citation, Montesquieu insisted that, because Charles Martel and Pepin subdued the Frisians, then these laws were subse-
quent to that era. For, he footnotes, the Frisians did not know how to write before then. The Salic laws accordingly arise from pre-literate Frankish constitutionalism.

The balance of Book 28—the longest book in Spirit of the Laws at forty-five chapters—goes on to account for the forms and consequences that emerged under the influence of written laws. For the purposes of this discussion, however, what matters is what existed prior to the written laws. For, although the written laws retain evidences and residues of pre-literate ways (such as trial by fire, chapters 16-18), they do not explain them, partly because the ancient ways fell into oblivion. Accordingly, the account of the ancient ways, the customs, of the Franks, is a very different thing than the account of the “civil laws among the French.” The chapters at the end of Book 18 have more in common with the origins of Greek city-states than with the rise of the monarchical nation-state. Therefore, they are not misplaced.

At the outset of Spirit of the Laws, in the book on “laws in general,” Montesquieu had argued the necessity of what can only be called pre-literate constitutionalism. By this expression we mean a uniformity of human response under diverse (indeed, almost eccentric) circumstances. Given the radical individuality of all things existing, the task of identifying laws of nature that operate generally becomes especially complicated. In effect, the successful search should disclose a universal law in the disguise of difference.

Motion becomes the foundation of this analysis for the precise reason that it is specifically adapted to the purpose; it discloses differences of location, time, and acceleration subject to force, a uniform determinant. Book 1 quickly advances, however, to reveal that sources of motion are less transparent than motion itself, and dramatically so once man becomes the subject of investigation. For man hives off from creation into realms of deliberate motion—deliberation—that yield constitutions or ways of being that are variously complex. Somewhere between mute nature and deliberative humanity, Montesquieu insists, man must have been subject to more or less transparent sources of motion that operated uniformly to lead him toward deliberation—however various the outcomes. Here we recognize the spirit of modern science or liberalism generally credited to Montesquieu, but we see it clearly as a ground clearing rather than a concluding argument.

Ultimately, the sources of motion that lead man to deliberation are less interesting than the prospects and forms of deliberation. That is the burden of Spirit of the Laws. To demonstrate that truth, however, it is
necessary to demonstrate where uniform determinism ends and where deliberation begins. For that reason after Montesquieu has completed the survey of deliberate constitutionalism (through Book 13), it is nevertheless required to give, not merely a general or theoretical account of the conditions limiting deliberate constitutionalism, but a detailed account of the extent of determinism and the process or processes by which determinism ineluctably becomes deliberate constitutionalism.

Book 14 accordingly introduces the notion of climatic determinism (or the general determinism of material circumstances). It argues that general material conditions are not ultimately determinative (though they have a relative weight). Next, in Books 15-17 he considers particular human relationships in light of the weight of material determinism and poses the inquiry whether human moral purpose serves as an adequate counter-weight. The affirmative response—considering the injustice of slavery, the equality of women, and the despotism of political expedience—serves to highlight the need for a demonstration of how mankind might move from an expected fate (slavery, subjection of women, political inequality) to that deliberate or literate constitutionalism to be called citizenship or civilization.

We derive the title of this account from the foregoing consideration. For, deliberate constitutionalism invokes an end that exceeds by necessity any one people’s particular experience. Where men act deliberately, in other words, they will typically intend more than they are competent to realize. Consequently, they will eventually suffer from their very virtues, their good intentions. This dilemma appears to be founded on some degree of irreconcilability between local needs and universal principles, mirroring the theologi-co-political problem. Since whatever God might be, it will always exceed what man might be; and it would seem that no men anywhere could ever adequately attain or approach the divine qualities. Yet, men are truly men only insofar as they pursue that end. Montesquieu aimed to recast that dilemma.

Book 18 constitutes the reply to this inquiry, in the form, first, of a demonstration of the weight of particular or local material determinism and, second, the course of development beyond determinism. As such, Book 18 closes the discussion of determinism in Spirit of the Laws (leaving scope for presentation of a particular—deliberate or literate—as opposed to a general constitutionalism).
THE USES OF HERODOTUS

In order to see that Book 18 moves in this manner, it is necessary to see its relationship to Book 28 (as adduced above). It is moreover necessary, or further required and thus sufficient, to see what the exact subject of Book 18 is. And here, too, there has been confusion. Generally regarded as political geography, inspired by a passage in Plutarch’s “Life of Solon,” the book has not been afforded the wider context it requires. We recover the wider context by revisiting the text and posing new questions about its sources. Doing this reveals reasons to widen its context beyond geography and to highlight its analysis as continuous with or in dialog with a previously established philosophical tradition.

Chapter 1 of Book 18 opens thus:

The bounty of a territory’s land [pays] naturally establishes in it dependency. Folk in the countryside, who constitute most of the people there, are not so jealous of their liberty; they are too busy and too consumed by their individual [or private] business. A countryside abundant with goods fears pillage; it fears an army…[citation to Cicero]. Thus, government by one person is more found in fertile lands, and government by many in those that are not (which is sometimes a compensation).

The sterility of Attica’s soil established popular government there, and the fertility of that of Lacedemonia aristocratic government. Plutarch tells us “that the Cylonian sedition having been appeased in Athens, the town fell back into its old dissension, and separated into as many parties as there were kinds of lands in the Attic territory…” (Montesquieu 1950, 18.1) (See Addendum 2.)

The citation of Plutarch may lead one to think that Montesquieu derived this discussion of the effect of the fertility or sterility of the soil from the “Life of Solon.” Consider, for example, this commentary: “Cette citation de Plutarque montre d’où M. a tirée l’idée d’un rapport entre la forme de gouvernement et la fertilité plus ou moins grande du sol.” (Montesquieu 1950-61, 2:442n4). “Et s’appuyant sur l’autorité de Plutarque qui semble lui avoir suggéré cette idée, M. en donne pour preuve Athens et Sparte.” (2:276).

However, the passage in Plutarch contrasts strongly with the meaning of Montesquieu’s passage. For, Plutarch emphasized Solon’s deliberation, and his “fitting the laws to the state of things…finding the ground scarce rich enough to maintain the husbandmen and altogether incapable of feeding an unoccupied and leisured multitude, brought trades into credit”
(Plutarch 1932, 110). The dissensions stilled by Solon and cited in the last paragraph of chapter 1, however, bear no relation to the “sterile terrain” of Montesquieu’s penultimate paragraph. Nor does Plutarch’s account offer the contrast with a fertile Lacedemonia. An uncited comment by Thucydides is the source of the observations in Montesquieu’s penultimate paragraph, and their significance lies in the fact that dissensions did not flow from the sterility of the soil (as they had from fertility in Lacedemon) but from the free government that grew out of that sterile soil.

Montesquieu’s silence on Thucydides (with further silences on the more important portion of the Plutarch chapter on Solon and their indirect comment on Herodotus) invites an effort to contextualize the argument for the influence of terrain on political development. And it is particularly relevant that Thucydides’ counter-intuitive observation—fertile plains breed banditry and despotism, while sterile soil spawns industry and liberty—now figures into a broader discussion of climatic or material determinism. Not only had Herodotus erred (if, Marcellinus says—inspired by Thucydides—“Herodotus does not lie” [Thucydides 1974, 1:12,5]), it seems, by reverting to while criticizing Homeric myth, so, too had he erred by imagining that political history (the account of local tragedies) could be generalized by means of situating it in the context of special climatic features (no one person could rule Africa, Asia, and Europe). Note that I follow Benardete’s account of Herodotus throughout this discussion: “Although Herodotus does not solve this problem of his logos, he does show in fact that the heterogeneity of the earth forbids any part, even the best part (Persia), from conquering the whole earth… The very conditions that make for the superiority of Greece prevent its expansion except with the loss of its superiority… This fundamental defect cannot be overcome on the political level.” (Benardete 1999, 206) Montesquieu does not cite to this element of Herodotus.

Because Thucydides (actual source of the sterile soil argument) did not connect the quality of the soil with the quality of the air and the rivers, one unavoidably interrogates the partner silence that did so: Herodotus’s Historiae. Surely, the forerunner of every argument from climatic determinism and the uniqueness of particular ways must be Herodotus’s magisterial work. Before we settle finally on Thucydides as authorizing Montesquieu’s departure, we need first to inquire how far Herodotus—whom Thucydides and Plutarch thought it needful to correct—provides the outer frame of Montesquieu’s analysis of the motion between history and tragedy.

It is, after all, perhaps no accident that Montesquieu’s chapter
9 of Book 18 echoes Herodotus' account of the territory of the Scythians:

I don’t believe one would have all of these advantages in Europe, if they left the land uncultivated; almost nothing but forests would appear there, oaks and other sterile trees. (Montesquieu 1950, 18.9)

This particular observation, however, served to illustrate the general conclusion drawn in Book 14, chapter 3:

In the Roman era, the peoples of northern Europe lived without art, without education, almost without laws; and yet, by the simple good sense inherent in the coarse tissues [thick skins] of those climates, they preserved themselves with admirable wisdom against Roman puissance, to the very moment where the northern Europeans left their forests to destroy Rome. (Montesquieu 1950, 14.3)

This observation, we shall see subsequently, is the predicate for Montesquieu’s treating the primitive Germans as though they had no religion until they became Christian. Remarkably, the simple common sense of a thick-skinned people provided for what Herodotus identified as the “one thing, and that the most important in human affairs, better than any one else on the face of the earth: I mean their own preservation.” By echoing Herodotus in the post-Herodotean context of the defeat of Rome, Montesquieu affirmed the constant truth of Herodotus’s observation. By remaining silent about Herodotus’s authority, Montesquieu subordinated Herodotus’s observation to his own two similar observations. He signals this to the careful reader when in simile he invokes Ramses II by means of Herodotean usage: Sesostris (chapter 18). That conveys still more surely his comparison of the acknowledged Louisiana Natchez and the unacknowledged Persians (both of whom worshipped the sun), when Montesquieu concludes that “the prejudices of superstition are superior to every other prejudice, and its reasons to every other reason” (Montesquieu 1950, 18.18). That is perhaps the purest form of the Herodotean teaching. But why is it understated?

Montesquieu’s two observations open the pathway beyond superstition. First, in Book 6, chapter 2 Montesquieu identifies the one thing in the world that matters most for men to know, namely, how to render justice. He does so ironically, however, calling into question the assertion that justice everywhere should be rendered so certainly as it is in Turkey, “by the most ignorant of all peoples” (Montesquieu 1950, 6.2). Self-preservation may be assured by an ignorant people enjoying fortunate circumstances, but rendering justice requires more than circumstances—it requires deliberate or literate
Thus, in Book 12, chapter 2, Montesquieu reaffirms the principle, indicating that some countries “have acquired,” and others “will acquire” yet, “knowledge” of “the most certain rules” that can be applied in criminal judgments—a knowledge that “concerns humankind more than any other thing there can be in the world” (Montesquieu 1950, 12.2). We develop a rule. The knowledge how to render justice exceeds ignorance by just so much as deliberate constitutionalism exceeds advantageous climatic or material conditions.

The second observation by which Montesquieu silently acts to place Herodotus’s teaching in perspective occurs in Book 24, chapter 1, where Montesquieu avers that Christianity “doubtlessly wishes that each people should have the best political and civil laws; for they are, after it, the greatest good that men may give and receive.” Then, to make clear his meaning, in chapter 25 of the same book, he refers back to this passage and insists that “one said” there that “Christianity is the first good.” Finally, in Book 25, chapter 2, footnote b, he referred back to what “I have said” in chapter 25 of Book 24. Montesquieu intends the reader to pay particular attention to this claim about the “greatest good that men can give and receive.”

Formally, there is no difficulty in distinguishing what men can do (“give” and “receive” are active verbs) and what God can do (the gift of Christianity is the first good). The question, however, is to know how these goods rank alongside the foregoing “most important” matter. We may reduce, for argument’s sake, political and civil laws to knowledge of justice. Then there are not four but three great goods: the Herodotean (natural or historical), the human, and the divine or, as we may say, deterministic goods, chosen goods, and divine goods. The silence about Herodotus in Book 18 forces us to question whether the Herodotean account of politics (predicated upon taking men’s gods as we find them) is anything more than a beginning—anything more than recognition of the intrinsic or deterministic character of nature itself. In the case, the further silence about Thucydides (Herodotus’s corrector in so many ways), forces us to discover history less in nature than in human choosing (giving and receiving), with an eye to disclose the tragedy in falling short of the divine.

We suggest this result for two reasons. First, the silence about Herodotus is not complete (whereas that about Thucydides is almost so) but only in Book 18. And what is said about Herodotus explicitly bears directly on constitutionalism.
the question of recognition of the ranks of the goods. Secondly, the model employed in Book 18 is actually Thucydidean, and the book is not only silent about him but misleadingly cites Plutarch (a more strenuous corrector of Herodotus) and obscures still more the roots of the argument. We learn from the citation of Plutarch’s “Life of Solon,” however, that there is something to be saved in Herodotus and, to that extent, something of Herodotus to save from Thucydides and Plutarch. Far more important than the Cylonian sedition in Plutarch’s account of Solon’s wisdom is his insistence upon the accuracy or truthfulness of Herodotus’s story of Solon’s exchange with Croesus. All other intelligent readers regard this story as fable, on the ground of anachronism. (Solon lived from 640/635 to 561/560 BC, and he served as legislating archon in Athens in 594-593 BC. Croesus reigned as king in Lydia from 560-546 BC.) Plutarch was fully aware of those doubts, but deliberately chose to repeat the story as true, because it deserved to be true.

Montesquieu would no more expect us to fail to notice the defense of Herodotus in the “Life of Solon,” than he would expect us to fail to notice the imprecise if not false attribution to Herodotus Montesquieu makes in his only explicit, textual citation to Herodotus. Before we take note of that final precursor to an interpretation of Book 18, however, it would be helpful to pause and consider the lone explicit reference to Thucydides in *Spirit of the Laws*, a reference that happens to be paired with a reference to Plutarch.

The Uses of Thucydides

In Book 11, chapter 11, Montesquieu discussed the monarchical constitution in the heroic era in Greece in comparison with the modern monarchical constitution conforming to principles of liberty. He observed that the ancient monarchy had ill organized the three powers (pouvoirs) of government, placing the legislative authority (puissance) in the hands of the people, and the executive and judicial authorities in the hands of the executive. Concerning the people’s legislative authority, he cited Plutarch’s “Life of Theseus” and Thucydides’s first book in the *Peloponnesian War*.

It was Theseus, as Plutarch relates, who gathered together in “one city” the dispersed and industrious but dissentient people of sterile Attica. And he did so by forming a popular city, in which the authority of the people was recognized, reserving to himself only to be “commander in war and protector of laws.” It were wonderful, naturally, if Thucydides were to relate similarly the founding of Athens and her carefully joined constitution. In fact, however, Theseus is not mentioned at all in Book 1 (which contains
Thucydides's archaeology) and, indeed, not in the entire History of the Peloponnesian War. What Thucydides does say about the earlier times is that they did not amount to much, that no great thing was done then, that fertile lands were rife with banditry, and that Attica was “from great antiquity for the sterility of the soil free from seditions…ever inhabited by the same people” (Thucydides 1975, 15-16). Indeed, there was not then even a Greece. Moreover, Thucydides also mentions the Cylonian rebellion, noting that the continuing pollution resulting from that crisis and the manner in which it was handled provided the Lacedemonians the pretext leading on to war, namely, Pericles, the Athenian commander and a direct descendant of those who had slain the rebels in sacred precincts (para. 126-127).

How do Plutarch and Thucydides lend support to the observation in Book 11 concerning the distribution of powers in government? Montesquieu's chief point in Book 11 is that the monarch or executive should share in the legislative power for purposes of self-defense, and that the monarch or executive should not be a judge in order to avoid the temptation to abuse. Because Plutarch's favorable account shows Theseus arranging the constitution badly—from Montesquieu's perspective—that account cooperates with Thucydides' account in diminishing the precedental value of early constitutionalism. What plays a more significant role than early constitutionalism is the continuing influence of religious sanctions. In other words, Plutarch reflected the pre-Peloponnesian wars, Herodotean view that the constitutional foundations of Theseus and later Solon were more important than the religious foundations of Greece. (Herodotus, interestingly, nowhere mentions Theseus.)

Plutarch, following Herodotus, could praise the resolution of the Cylonian sedition for its having successfully defended the constitution, while ignoring its affront to religious sensibility (though that was doubtless evident to Herodotus in the run-up to the Peloponnesian wars). Thucydides, on the other hand, writing as an observer of the Peloponnesian wars, observed that the lingering pollution from that religious affront provided a pretext for the war that produced the greatest, and ultimately a fatal, threat to the Athenian constitution.

In sum, the textual citation of Plutarch in Book 18, chapter 1 serves both to highlight the significance of Herodotus in Montesquieu's account (his specific concern with religion) and the reason for rejecting Herodotus's authority regarding constitutionalism (Plutarch's defense was not successful because it abstracted from religion) and to explicate the specific
reliance upon Thucydides (his comprehensive although political understanding of the constitutional role of religion is superior).

**The Establishment of Religion Independent of Nature and Choice**

With this general overview established we are prepared to attempt a reading of the single, explicit textual reference to Herodotus in the entire *Spirit of the Laws*. The reference occurs in Book 14, chapter 11, concerning “laws that are related to environmental [climatic] maladies”:

Herodotus tells us that the laws of the Jews concerning leprosy were derived from Egyptian practice. Effectively, the same maladies required the same remedies. These laws, as well as the illness, were not known by the Greeks and the first Romans. The climate of Egypt and of Palestine made them necessary; and the ease with which that malady could spread ought certainly to make us feel the wisdom and foresight of those laws. (Montesquieu 1950, 14.11)

This singular paragraph spawns a wealth of reflections concerning the propagations not only of diseases but also of constitutions, religions, and peoples. (It will surprise no one, by now, that Herodotus mentions neither “Jews” nor “leprosy” in Book II of his *Historiæ*.) The theoretical operation of environmental or material conditions to thwart the propagation of human communities would at least confine deliberate constitutionalism to local tragedy. While there could be learning from community to community, it would be subordinated to the determinism of circumstance.

A massive fact intrudes upon this account: Montesquieu named Herodotus and cited “Book II” for the reading here adduced. However, nowhere in Book II, nor in the whole of Herodotus’s *Historiæ* does Herodotus even mention the “Jews.” Here, as occurs so often in *Spirit of the Laws*, the reader faces a mystery before he can attain to a reasonable reading of the text. Two possible explanations offer. One derives straightforwardly from the text, and another invokes the balance of the citations to Herodotus throughout the entire work (in footnotes rather than in the text itself).

The straightforward explanation notes that, Cohler, translating *Spirit of the Laws*, simply observes that “Herodotus nowhere mentions the Hebrews, but consider I.138 for Persian customs concerning leprosy” (Montesquieu 1989, 240n20). In fact Montesquieu’s reading may be more careful. In the first place, the passage in Book I of Herodotus’s *Historiæ* occurs in a paragraph that opens with the observation that “no race is so ready to
adopt foreign ways as the Persian” (Herodotus 1996, I:138). That creates a strong presumption that Persian customs regarding leprosy are as much borrowed as the Median, Egyptian, and Greek customs that are specifically cited. Montesquieu, we may say, has supplied the specification lacking in Herodotus, obviously electing to identify the Egyptians as precursors to “the Jews.”

While it is true that there is no textual reference to “Jews” in Herodotus, Herodotus does make specific and frequent reference to “Syrian Palestinians,” including their deriving practices (such as the prohibition against swine, which Montesquieu treats as environmental in Book 24, chapter 25, and the practice of circumcision) specifically from Egypt. (II.104 cites circumcision learned by “Syrians of Palestine” from Egypt; while VII.89 cites the “Syrians of Palestine” joining with the Phoenicians to contribute 300 triremes to Xerxes’s invasion force.) Since the interactions among Persians, Egyptians, and Hebrews through much of the era about which Herodotus wrote are notable, it would be far more remarkable that Herodotus should not have mentioned Jews or the religion of the Hebrews (despite his restriction of comments on religion to “what men say”), than that he would have done so. (Herodotus 1996)

Not only did Herodotus entertain discussion of who were “the first peoples” and the comparative values or orientations of religions (even Cyrus and Xerxes, according to the book of Ezra, recognized the claims of Yahweh in Jerusalem), but Herodotus’s logos entailed foremost determining whether one ruler—and hence one faith—could master all of Asia, Africa, and Europe. Because Herodotus suggests the impossibility of such an occurrence, and the religion of the Hebrews alone raised the standard of the one true God if not the one true people, the existence of the Hebrew God challenges the Herodotean logos, save insofar as that god is seen as merely derivative.

If Herodotus’s “Syrian Palestinians” are Hebrews (or, perhaps, even Samaritans), then Herodotus regards them as largely if not merely derivative of Egypt. Montesquieu, therefore, correctly illuminates Herodotus’s logos by naming “the Jews” specifically. Further, by tying the Herodotean logos to the argument from environmental or climatic determinism, Montesquieu renders it dependent on a showing that the power of climate is absolute, failing which the claim of Yahweh must be considered anew. Moreover, in this straightforward account, it becomes urgent to reconsider that claim in light of the evident fact that the Christian God inherited the claim of Yahweh and demonstrably broke through the confining limits of the Herodotean logos. This fact in turn makes it necessary to re-think the relations between politics and religion,
climate no longer proving a barrier to religion. Still more is required when we couple this fact with the Thucydidean insight that demonstrates the power of religious sentiment to shape or influence deliberate constitutionalism.

How does the less straightforward resolution of Montesquieu’s mysterious invention of “Jews” in Herodotus alter or augment this straightforward account? When we remember that Book 18 disposes ultimately of the argument from climatic determinism (the appearance in 24.25 to the contrary notwithstanding)—and hence of that element of Herodotus—we are left with the sole, apparent Herodotean claim that politics should not seek to alter religions. The truth of that claim must be established on grounds independent of the force of climate, and the grounds that remain are the grounds of political necessity or human will, Thucydidean grounds (see Allen 2001). How far political necessity may inform deliberate constitutionalism, in turn, depends upon the extent to which general principles of human motion are discoverable—or, to state it differently, how far human or general goods may inform local deliberations. If Herodotus informs a discussion of the ranks of the goods, then Montesquieu’s invention of “Jews” in Herodotus may serve to show—or at least begin the showing of—how to distinguish the human goods from divine goods.

Montesquieu cites Herodotus seven times after the initial, false textual citation in Book 14, and all in footnotes occurring in Books 21 and 22. Notably, he does not cite Herodotus in Book 24, chapter 25, which concerns the “inconveniences of migrating religions” but which excepts the “Christian religion” and identifies it as “the first good.” Montesquieu cited Palestine, Arabia, Egypt, and Libya [Africa], again anachronistically echoing Herodotus’s usage. Herodotus in II.47-51 described Greek religion as deriving nominally from Egypt, and he also took note of the swine prohibitions. In short, where Montesquieu could have cited Herodotus, he did not.

Montesquieu aimed to stand on different ground in his discussion of reasons for not propagating religion. His citations of Herodotus, therefore, are contained in the books on commerce and world revolutions and the use of money. Of the seven citations, all but one refer to Book IV in Herodotus, which Montesquieu cited by referring to its “muse” notation, “Melpomene,” (that is, “Tragedy”) except for the fourth citation, which he cited simply as “Book IV.” The seventh citation refers to Herodotus I.94, but Montesquieu referred to it by its “muse” notation, “Clio” (that is, “History”). This book, though not this paragraph, of course, is the book in which an observation concerning leprosy can be found. In his final citation Montesquieu
added a note concerning cultural borrowing:

Herodotus, in *Clio*, tells us that the Lydians discovered the art of coining money; the Greeks took it from them: Athenian coinage bore the impression of their ancient ox. I have seen one of these coins in the Earl of Pembroke’s collection. (Montesquieu 1950, 22.2n)

Herodotus, who was always so careful to distinguish what he had “heard” from what he had “seen with his own eyes,” inspired Montesquieu to demonstrate that he could prove independently the truth of some—or at least one—of Herodotus’s claims!

Herodotus may have invented the story of Solon’s conversations with Croesus, King of Lydia. Yet, we may still rely upon his account of Lydian arts. The art of coinage implicates the art of wealth-getting. And the Solonian exchange with Croesus called into question the sufficiency of wealth for human happiness. Nevertheless, the art of wealth-getting seems to propagate through diverse climates (from east to west) in a way that religion—or at least untrue religion—cannot.

Each of the citations to Herodotus in Books 21 and 22 indicates a specific example of the insufficiency of the general understanding of the role of arts in advancing the human goods in the eras Herodotus described. We are permitted to think that Montesquieu believed Herodotus to be cognizant of these insufficiencies. Thus, the foreshortening of the voyage from the Indus to the Red Sea between the time of Darius and Xerxes to the post-Herodotean era of Alexander (from 30 months to roughly 7 months) represents the order of magnitude to be applied in considering the relevance of other changes or “revolutions” affecting our understanding of the human goods (21.9). The fact that the Persian Empire extended to the Indus (21.8) is not a true measure of the reach of empire, for it excluded commerce (which was left to the Greeks, 21.8). Consequently Darius’s conquest of the Indies was a conquest in name only, leaving ultimately untouched not only the religion but also the people’s understanding of the conditions affecting the attainment of the human goods. The difficulty was not merely technical, however. For the absence of the compass did not prevent the Phoenicians from circumnavigating Africa, while Sataspes failed in a similar effort.

Montesquieu used the circumnavigation of Africa as a fundamental reference to the conditions and terms of material progress—that is, progressive human control over environmental circumstances. He saw the incurious Romans, ultimately, as having prevented that development which
would have led to a much earlier discovery of the new world and concomitant “revolutions” in means to attain the human goods.

Here, though, our interest is only to explore reasons for the invention of the Jews in Book 14. We noted Montesquieu’s silence in Book 24, on an occasion when it would have been natural to cite Herodotus in relation to an issue that bears on the fate of the Jews. Similarly, in Book 21, chapter 20 Montesquieu discusses the “revolutions” that have affected, without changing, the Jews “from century to century.” In other words, Jews somehow emerged on the other side of history, having escaped Herodotean oblivion, and bearing their religion through countless lands and under the relentless weight of severe oppression. We might say, if we put words into Montesquieu’s mouth, that Herodotus would have named the Jews, if he had had any inkling how far their faith would carry them.

The relevance of this Jewish story in this context, however, is derivable from the observation Montesquieu makes regarding the human good in Book 24, chapter 1 (with repeated emphasis in 24.25 and 25.1, which makes clear that Montesquieu aimed to derive general motives from particular religious experiences). That human good—“the best political laws and the best civil laws”—is predicated upon what we discover in thinking through that particular logos, the logos of Herodotus, namely, that the underlying principle of adaptation to the environment must necessarily convey the capability of mastering the environment in relation to the attainment of the human goods. Thus we return to the conclusion of Book 18. (See Addendum 3.)

**Politics As Escape From History**

The bulk of Book 18 focuses upon the relation of means of subsistence or use of property to political forms. Montesquieu argues that men develop constitutional forms in strict relation to the means by which they procure their livelihoods. In chapter 6 he provides three examples of human industry triumphing over climate and terrain—one each from Asia, Africa, and Europe, the Herodotean trilogy. Book 18, however, will not preserve that focus on universal human experience, opting rather to derive from general types of societies and general principles of development the particular European, and still more, French experience. In this he mirrors Herodotus’s final focus on Greece’s, or rather, Athens’s conquests in Asia Minor. For the question has now become, not whether all can have the same laws and gods but, rather, whether all or any can have the best political and civil laws.
Beyond the dichotomy between fertile or arid soil, Montesquieu distinguishes circumstances for men in terms of modes of subsistence. Three are fundamental: the hunting life, the pastoral life, and the agricultural life. Where the natural environment is held constant, the mode of subsistence comes to the fore. Men who are uniquely hunters or shepherds experience such constraints upon the manners and numbers in their communities that they are doomed to live either as savages (hunters) or barbarians (shepherds) (18.11). Only those who cultivate the land can both increase in number and in the arts of civilization (18.10). It is the parceling of landed property that contributes mainly to augment the size of codes of civil law. Civil laws replace the “moeurs” which constitute the first foundations of civil society (18.3). People who do not cultivate the land will have as many affairs to regulate by “the right of nations” as they will have few affairs to regulate by civil rights (18.12). Among the latter, authority reposes in old folk with long memories, guarding oral traditions through their constant wanderings and dispersals through forests and pastures. But since their “moeurs” are the “moeurs” of people who take slaves, women, children, and booty as occasion offers, they cling to nothing as their own by reason, apart from a fierce attachment to independence. Their laws regulate the sharing of booty and, “like our Salic laws,” pay special attention to theft (18.13). Their liberty begins with an independence so strong that it necessarily fosters political, or at least civil, liberty (18.14). Cultivation, on the other hand, produces the use of money, and then arts and “knowledges,” which in turn produce needs. Moreover, cultivation requires the establishment of signs of value in general, of which abstractions money is the most concrete (18.15). In short, it is the holding of property that gives birth to the city of luxury and, therefore, the possibility of the ideal city. These chapters serve to distinguish the “heroic age,” characterized by brutish ignorance and unconscious atheism, from the age of deliberate constitutionalism.

It is still the case, however, that the pathway of deliberate constitutionalism must be explicitly derived. Interestingly, Montesquieu provides evidence of this necessity through the negative example of injustice. Property holding not only generates “signs of value,” it also alters the character of injustices. For arts and knowledges provide injustice with more subtle weapons.

In the former lands where there is no money, the thief only lifts things… nothing can be hidden, because the thief always bears with him the proofs of his conviction… (Montesquieu 1950, 18.16)
As this applies to things and money, it can also apply to words—that is, the capacity or incapacity to hide the truth. In the simpler situation—where there is no money—“no two truths are alike” (Montesquieu 1950, 18.16). In the complex situation we can confuse the signs of truth to hide the truth itself.

It occurs, therefore, that peoples who develop arts and knowledges place themselves in danger of being defrauded of the very goods they imagine to gain by means of their improved mode of subsistence. That makes it urgent to identify a means of procuring to them sure instruments for making their “holdings” apparent and permanent. That is the purpose of Book 18, and in particular its lengthy discussion of ancient French laws governing inheritance of the Salic or household property. The earlier anticipation of the discussion of the Salic laws (chapter 13: the primitive Germans paid special attention to theft, “just like our Salic laws”) proves to be an exact precursor of the discussion at the end of Book 18.

Before Montesquieu turns to that discussion, however, he provides a second consideration regarding peoples’ fitness for attaining the human goods. Since the principle issue is their access to laws of reason to govern their motions, not only can their material circumstances thwart the development of an understanding of laws of reason, but so too can their moral circumstances. In chapter 17 he observed that what assures the liberty of non-cultivators is that they have no knowledge of money. Now, this presupposes not only that such folk are not deliberate about their politics or their morality, but also that they are scarcely distinguishable from what Socrates identifies as the city of sows in Plato’s Republic. The fact that they enjoy a certain liberty is a reflection of the sterility of their lives, much as the sterility of the soil assured liberty or independence in old Athens.

Exceptions to this pattern will arise where superstition intervenes, causing people equally lacking basic knowledge and not cultivating the soil nonetheless to act deliberately. In such cases, however, not liberty but despotism results.

…the constitution of a people in Louisiana, named the Natchez, should not conform to this. Their chief disposes of all his subjects’ property and makes them labor at his whim; they cannot refuse him their heads; he is like the grand seignor. You would think that it is the Great Sesostris…

The prejudices of superstition are superior to every other prejudice, and its reasons are superior to all other reasons. Thus, while savage peoples do not naturally experience despotism, this people do.
They adore the sun, and if their chief had not imagined that he was the sun’s brother, they would only have discovered in him such a miserable one as themselves. (Montesquieu 1950, 18.18)

Much like Amasis in Egypt and Darius in Persia (as Herodotus related) these sun-worshipping people experience despotism though their circumstances do not entail it. One might say they lord it over their circumstances due to an infelicitous superstition. Nevertheless, they do overcome their circumstances, however unhappily.

Thus, the good for man is dependent upon reason and also utterly subject to one of two conditions: either to be free of all superstitious prejudices (for superstition also has its reasons), or to be subject only to the prejudice of a true religion (as Amasis and Darius were not). This point is negatively reinforced by the example of the Tartars, who are gentle among themselves but cruel to others. “They have destroyed Asia from the Indus to the Mediterranean,” which is to say the better part of the Herodotean universe (Montesquieu 1950, 18.20). The Tartars are truly barbaric, having no arts, no knowledge, no needs properly so called, and no capacity for tragedy. It follows, then, that they do not observe the law of reason and probably no true political law (which must necessarily inform the law of nations properly understood).

It was in Book 17, chapter 5 that Montesquieu contrasted the slavish nature of the Tartars with the rational liberty of the Europeans (“reason makes them dependent only for the sake of their happiness”). The reason to resume that narrow discussion in Book 18, chapters 19-21 is that it provides the suitable bridge to the explicit discussion of a civil law of the “Germanic peoples,” of the Salic law in particular. That discussion, in turn, demonstrates that the civil laws of the primitive Germans—founded in a native sense of equality (17.5)—were free of the defects of irrational superstition. At no point, whether in Book 18 or Book 28, does Montesquieu mention the primitive religion of the peoples from the Germanic forests. He treats them as if they had no religion to speak of, until they became Christians. The discussions of their superstitions in Book 28 concern exclusively the origins of their superstitions in the circumstances of their lives. Thus, while they lacked arts and knowledge in their primitive stages and did not yet cultivate the soil, they remained free to acquire arts and knowledge (hence to act deliberately based on reason) because free of the superstitions conducive to slavish moeurs.
CONCLUSION

It is necessary to recall that the chapter on “a civil law of the German peoples” which opens the final section of Book 18 (18.22), consciously echoes the previous ejaculations toward “our fathers the Germans” found in 6.18 and 14.14, as well as the description of the discovery of the constitution of liberty in the “forests of Germany” from Book 11. Thus,

I will explain here how this particular text of the Salic law that folk ordinarily call Salic law derives from the institutions of a people who did not cultivate the land, or at least but little cultivated it. (Montesquieu 1950, 18.22)

To that extent the primitive Europeans differed little from the natives of Louisiana or the Tartars. But Montesquieu had written earlier,

Our fathers the Germans dwelt in a climate in which the passions were very calm. (Montesquieu 1950, 14.14)

And still earlier he had characterized their civil practices as disordered (despite their sensitivity to personal insult or affront [17.5]):

Our fathers the Germans allowed almost nothing but pecuniary penalties… A good legislator takes a just mean: he does not always ordain pecuniary penalties; he does not always inflict corporal penalties. (Montesquieu 1950, 6.18)

We may fairly conclude, therefore, that the Germans did not deliberately order their laws or constitution at the outset. But by the time of the Salic law, they had found reason to act more deliberately than they had theretofore. As we observed above, this occurred even before they learned to read and write. Accordingly, it was a constricted or constrained form of deliberation. However, it was informed by a sense of the need to provide for some specific human good, which, as Montesquieu saw it, was the beginning that makes possible the eventual determination to provide for the human good in general.

It is safe to conceive that friendly circumstances conspired with a fortunate freedom from superstition to make Europe possible. For example, the failure to cultivate the land was by no means connected to the sterility of the soil or the inhospitality of the climate. We might say that the primitive Europeans simply had not thought to do so! The Salic law, however, is above all concerned with the dawning recognition of the power to hold land (rather than simply to wander through the forests). It defies expectation to imagine that men began to form property rights before they began to make systematic use of property. But Montesquieu aims to teach that for men to act
deliberately, rather than merely in response to circumstances, already defies expectation. The arguments from the laws of motion in Book 1 established the requirement that the account of human behavior must explain why it “moves” independently of the relation of forces in nature. The localization of human life (rooting it in property) in that sense is unnatural, even as Rousseau had understood and explained in the Discourse on the Origin of Inequality among Men. The eventual presentation makes clear that an infinite variety of causes intrudes to provide such explanation, varying both as circumstances vary and still more particularly as the “particular ignorances” (the superstitions or reasons) of peoples vary.

The law, in general, is human reason, insofar as it governs all the peoples of earth; while the political and civil laws of each nation ought only to be the particular cases to which that human reason applies. (Montesquieu 1950, 1.3)

It was, then, the very narrow focus of the Salic law that made it so suitable to initiating the civil existence of a nation that might find in its development a nearer harmony to the law in general.

The Salic law desired that, when a man left children, the males would inherit the Salic land [family plot] to the prejudice of daughters. In order to know just what the Salic lands [family plots] were, it’s necessary to research just what was the ownership or the use of lands among the Franks, before they had come out of Germany…

That was a purely economic law, which gave the household and the plot connected to the house, to the males who owed to dwell in it and to whom consequently, it was best suited. (Montesquieu 1950, 18.22)

Montesquieu’s emphasis upon the house and the plot connected to it intends to make clear that no agricultural principle was involved at this stage. The point, then, is only the will, the deliberate will, to perpetuate a family. We may contrast this with Rousseau’s wandering savage, whose transient liaisons produce offspring but not families. The Rousseauean natural man is the child of history whom only accident can alienate from brutalism, while Montesquieu’s natural man may escape history by an act of will. From that simple design, figured in the role of property, derives the eventual struggles over the right of succession in French and other European monarchies (not altogether rationally in Montesquieu’s eyes).

From this very simple and very clear perspective, Montesquieu developed in a few short chapters the entire story of the development of a nation out of the local concern to preserve families. Notions of
majority (in age), principles of the capacity to contribute to the defense of what one aimed to preserve, the emergence of assemblies to redress mutual interests, and the eventual establishment of a chief emissary or king all grow out of that simple beginning. It hangs entirely upon the willful determination to make a family, against every tendency of circumstance. Indeed, one might insist, that it is primarily the deliberate construction of the family that most of all leads man to attempt to overcome the influence of circumstance or climate, and so Book 18 aims to teach. But it is necessary to mate that deliberate will with attachment to property as the fundamental identity of the family, initially, and ultimately the nation, in order to capture the range of motions that will convert the deliberate construction of the family into the deliberate constitution of the state.

Finally, however, one must account for the role of superstition/reason in order to discover what gives space for such deliberation. Consequently, Montesquieu closes Book 18 with a not so gentle reminder why this portion of the work is separated from the history proper that opens in Book 28: it fails to account for the role and origins of religion among the primitive Europeans. In fact, in the closing chapter, he speaks as if they were Christians from the beginning, although he recognizes elsewhere (particularly in his work on the Romans, Considerations on the Greatness of the Romans and the Causes of Their Decline) that they had invaded Rome as mere pagans. Underlying this confusion, however, is the deeper point that must await resolution in the later books of Spirit of the Laws, namely, how the power of religion is to be distinguished from the power of superstition (see Addendum 4), and whether we discover the prospects for human good from religion in particular or history (inquiry) in general.

Addenda

1. We may permit J. V. Prichard to represent the class of criticism that faults Montesquieu's leaving philosophy and history unreconciled: “It is also to be regretted that the work fails to indicate its ideal; a sequel to ‘The Spirit of the Laws’ might, perhaps, have been expected. Having gone over the entire ground, a résumé should have been given, that philosophy might have had her place in the last chapter, derived from, yet free of, history; and that the last word in the discussion upon governments should be a description of the true type. Montesquieu might also be reproached for dwelling too affectionately on the past…inasmuch as he submits so easily to the yoke of history and psychological analysis.” (Montesquieu 1878, 1:xxiv)
2. Consider the “archeology” of Thucydides: “…the fattest soils were always the most subject to these changes of inhabitants; as that which is now called Thessalía, and Boeotia, and the greatest part of Peloponnesus…; and of the rest of Greece, whatsoever was most fertile. For the goodness of the land increasing the power of some particular men, both caused seditions, whereby they were ruined at home; and withal made them more obnoxious to insidiation of strangers. From hence it is that Attica, from great antiquity for the sterility of the soil free from seditions, hath been inhabited ever by the same people… the most potent of them, as to a place of stability, retired themselves to Athens, where receiving the freedom of the city, they long since so increased the same in number of people…” (Thucydides 1975, I:2)

3. *Spirit of the Laws* as a whole furthers discussion of the relationship between politics and religion well beyond this limited conclusion. For example, in Book 24.4 we establish the principle that the consideration of the political virtue of a religion is prior to consideration of its truth or falsity. Was Herodotus’s error simply the belief that the Hebrew God was a false God? At all events, Montesquieu examples this principle through the story of King Sabaco, the authority for which he cites as Diodorus Siculus, Book II. However, he could have cited Herodotus, II.139. Clearly, however, by this point silence about Herodotus is mandatory.

4. “Among barbarian peoples, priests ordinarily hold power [pouvoir] because they have both the authority [autorité] that they ought to get from religion and the puissance that superstition gives among such peoples. Also, we see from Tacitus that priests were greatly accredited among the Germans, that they brought police to the people’s assembly. Only they were allowed to chastise, to bind, to strike: the which they did not by order of the prince, nor for inflicting a penalty, but as from an inspiration of the divinity (always present to them that make war).

It is not necessary to be surprised if, from the commencement of the first race (the Merovingian dynasty), we see bishops as arbitrators of judgments, if we see them appearing in the assemblies of the nation, if they so strongly influence the resolutions of kings, and if folk give them so much wealth.” (Montesquieu 1950, 18.31)
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In *Reading Aristotle’s “Ethics”: Virtue, Rhetoric, and Political Philosophy*, Aristide Tessitore successfully accomplishes the difficult task of introducing Aristotle’s famous treatise to the new student of political philosophy while holding the attention of the seasoned reader of Aristotle. The difficulty of Tessitore’s task lies less in making the *Nicomachean Ethics* more accessible to a general audience—and at the same time settling definitively the scholarly controversy created by conflicting interpretations of Aristotle’s intention and structure in the work—than in respecting what Tessitore calls Aristotle’s “useful imprecision,” with special attention to the way Aristotle discloses the aporetic character of the theoretical foundations of the rhetorical art (120). In this, Tessitore’s performance is outstanding: his presentation of Aristotle’s work preserves the fascinating quality of Aristotle’s arguments even as he, with ease and refreshing candor, contributes to the tradition with a unique teaching of his own.

If within his exposition Tessitore attempts to bring together the two major sides in the scholarly debate concerning Aristotle’s teaching about the best life in the *Nicomachean Ethics*—one side represented by the philosophical readings of J. L. Ackrill, John Cooper, W. F. R. Hardie, and Richard Kraut; and the other by the political readings of Leo Strauss, Harry V. Jaffa, Carnes Lord, and Richard Bodēüs—he is more concerned that his interpretative approach shed light on the rhetorical dimension of Aristotle’s inquiry and thus provide a genuine alternative to “discussions of Aristotle’s ‘development’ or various theories about the chronological order of his prolific output” (7, 10-13). Tessitore sees his interpretative approach as crucial to “the discov-
tery of any underlying structural unity that may not be immediately apparent” and “further inquiry into possible reasons for the inclusion of [multiple] treatments in the text as it now stands” of the various subjects addressed by Aristotle (7). And with Reading Aristotle’s “Ethics,” Tessitore’s first step in this direction is the “novel thesis … that shifts in perspective within the ten books of the Nicomachean Ethics are best explained by positing the existence of a dual audience comprised of both philosophers and nonphilosophers” (54).

In relation to this, of particular interest to the seasoned reader of Aristotle is Tessitore’s detailed analysis of Book 7, in his third (and central) chapter, “A New Beginning: Incontinence and Pleasure.” Here Tessitore intends not only to give more importance to the chapters on incontinence (akrasia) that decisively precede the thematic discussions of pleasure, friendship, and happiness and “point to a kind of excellence that in some way transcends the horizon of moral virtue” (52), but also to harmonize Aristotle’s different treatments of pleasure in Books 1, 2, 7, and 10. Central to this attempt is Tessitore’s observation that the only explicit reference to political philosophy in the entire Nicomachean Ethics occurs in chapter 11 of Book 7, where the account of pleasure is first introduced. For Tessitore, then, chapters 11-14 of Book 7 are “addressed especially to philosophers or at least potential philosophers, in contrast to earlier and later considerations where the treatment of pleasure is subordinate to the moral-political horizon that dominates the Ethics as a whole” (63).

Because Tessitore also states his departure from generally accepted scholarly opinion on the importance of Aristotle’s Book 7 and advances this third chapter as providing the clearest illustration of his novel thesis (53-54), it is necessary to take a closer look at its argument. As Tessitore would have it, in introducing this new beginning with the threefold classification of the things pertaining to character (ta êthê) in (1) virtue and vice, (2) continence and incontinence, and (3) the divine and the brutish, Aristotle “considers a standard of moral seriousness that is lower and more accessible than the lofty target by which he initially set the sights of his readers, while at the same time, broadening the scope of inquiry to include the rare but revealing conditions of human beings who border on the bestial and the divine” (51, 52). This new classification is “appropriately accompanied by a statement about method” at Nicomachean Ethics 7.1.1145b2-7, that “neither stresses the necessarily imprecise character of ethical inquiry, nor speaks of the need to ascertain the first principles of ethics from the experience provided by a decent upbringing” (52, 53). Rather, through the formulation of puzzles (aporiai) and
seeking to elicit discoveries, Aristotle grounds the new beginning on a “philosophic problem, specifically, a conflict between the widespread view that human beings sometimes act in ways they know to be wrong and a Socratic teaching that denies this possibility” (53). By justifying the Socratic paradox from the perspectives both of dialectic and natural philosophy, Aristotle “attempts to move his readers from an initial frustration with the patently outlandish character of Socratic inquiry to some appreciation for the less than obvious truth to which that inquiry was devoted … that is, the kind of authoritative knowledge sought by the wise” (57). Moreover, by disagreeing with the “radical conclusion of the Socratic position” through the “very pervasiveness of the phenomenon it seeks to deny,” that is, through attentive consideration of the kinds of ignorance involved in wrongdoing in chapters 1-10 of Book 7 (57), Aristotle preserves decent opinion with respect to incontinence being a reflection of character, that is, insofar as the “tendency to give pleasure more weight than it ought to possess may stem from actual ignorance of potential knowledge, but over time the habitual slide toward pleasure shapes character and so creates a condition in which one is less likely to resist its charm on the basis of principles that one knows or believes to be right” (60).

However, Tessitore sees in Aristotle’s discussion of the Socratic paradox and subsequent clarification of the nature and scope of incontinence not only a merely introductory, but also a true, preparation of his readers for the thematic discussion of pleasure in chapters 11-14 of Book 7, one that allows them to take advantage fully of the “opportunity to test their capacities … to study the question of pleasure as political philosophers” (65). Particularly important for Tessitore is Aristotle’s discussion of the temperament of the “ardent” or “intense” person (melancholikos), who, although naturally susceptible to incontinence, may also become “extraordinary, in particular with respect to intellectual virtue.” This shift he attributes to an apparent contradiction in the argument. Aristotle appears at first to assert that the “incontinence of the melancholikos is more easily cured than the kind of incontinence that characterizes those who deliberate … but then immediately goes on to say that incontinence based on habit or upbringing is more easily cured than incontinence based on nature” (61). He then resolves the contradiction by suggesting that unlike the cure for incontinence based on habit, “the ‘cure’ for those moved by the intense desires of the melancholikos does not require their removal or change; rather it presupposes their fulfillment” (62). The subsequent account of pleasure in chapters 11-14 is intended to indicate how this fulfillment comes about, and it is perhaps the most important part of what Tessitore points to when he says that by means of this sole explicit reference to
political philosophy in the whole of the *Nicomachean Ethics*, the “account of pleasure in Book VII is addressed especially to philosophers or at least potential philosophers” (62, 63).

What needs to be discussed now is the way Tessitore makes sense of what Aristotle says to his dual audience of philosophers and non-philosophers in chapters 12, 13, and 14. For Tessitore seems to presuppose a “radical dissimilarity between the life of the philosopher and that of the kalos kagathos” (72) that is perhaps unwarranted, especially if we remember that according to Aristotle all human beings, not just philosophers, have a sufficient natural disposition for truth and do for the most part choose it, and that rhetoric is useful precisely because truth and justice are by nature stronger than their contraries (Aristotle *Rhetoric*, 1.1.1355a14-17, 1.1.1355a21-22). There is no reason to suppose that Aristotle is not absolutely serious about these two claims, not only because he is critical of those commentators who give no importance to moral character and the study of enthymemes, but also because he puts forth a good reason not to use demonstrative arguments with the decent or with most or all human beings—namely, that these arguments are for the purposes of instruction, something that cannot take place easily before a multitude of readers (Aristotle *Rhetoric*, 1.2.1355a26-30). This means that even if we lived in a well-ordered regime, Aristotle’s *Rhetoric* would still be useful. From this it follows that what characterizes the philosophic life according to Tessitore—that is, “a radical questioning of all conventional beliefs and opinions, even praiseworthy ones, with a view to discovering the truth” (19)—is really only a small part of that life. Indeed, the serious conflict revealed by the trial of Socrates is not between the two ways of life of the kalos kagathos and the philosopher, as Tessitore suggests in his first chapter (19), but between the philosopher and those who unjustly use the power of words. Socrates was condemned, not because he was radically different from the kalos kagathos, but because he needed more time to instruct the Athenians about the philosophic life (Plato *Apology of Socrates*, 19a, 24a, 37a-b). Nevertheless he tried and almost succeeded (Plato *Apology of Socrates*, 35e-36b). And just as the philosophic life is not simply characterized by a radical questioning of all conventional beliefs, the life of the decent person is not simply “circumscribed by social, political and moral conventions,” as Tessitore supposes (19), but by a justice superior to all of these (Aristotle *Nicomachean Ethics*, 5.10.1137b9-10).

Because Book 7 is for Tessitore the opening of a chasm between the philosophic and ethical ways of life that Aristotle “attempts to span” through the discussions of friendship, pleasure, and happiness in Books
8-10, muting without dispelling the “essential and ineradicable dissonance” between the two standards of excellence (72), he has no problem suggesting that Aristotle would insult the decent part of his audience (68). Thus Tessitore seems neither concerned nor aware of how inconsistently he presents Aristotle’s teaching when he urges (a) that by suggesting pleasure as the end for which human beings act, Aristotle reveals a “perspective that is in tension with the dominant horizon of the Ethics” (66-67); or (b) that in identifying happiness with pleasurable—rather than noble (kalos)—activities, Aristotle seems to make the jarring argument that happiness is the “preserve of a small band, those … given over to the activity of contemplation” (68); or even (c) that the explanation for the mistaken belief in bodily pleasures being more desirable than others in chapter 14 is “surprising” because “in a book that aims at fostering ethical virtue, Aristotle has succeeded in offering an explanation as to why someone might become profligate or base that is completely devoid of moral culpability” (70). Also, even though Tessitore understands that the “purpose of the Ethics as a whole is to help decent individuals orient their lives by a true, rather than illusory, notion of happiness,” he goes on to say that the implication of the arguments put forth in chapter 13, that is, that “pleasure, or at least a certain kind of pleasure, is something divine, or at least connected to the divine … may be intended to reflect a disparity that has become increasingly evident between a universal longing for happiness and the greatly restricted possibility for its fulfillment … the harsh truth that Aristotle continues to unveil is that some pleasures, particularly those that constitute the fulfillment of this universal desire, are not within the reach of all” (68-69).

At this point, then, mainly because Tessitore does strive to work from Aristotle’s own understanding of rhetoric, and also because of what he goes on to say about Aristotle’s discussion of “self-love” in Book 9 (91-92) and exhortation to be like the gods in Book 10 (113), we must raise a question with as much candor as Tessitore exhibits when he puts forth his teaching: is Tessitore’s philosopher Aristotle’s philosopher? In chapter 3, Tessitore talks about students who will be prompted to study Aristotle’s more explicitly philosophic treatises as a result of the manner in which he presented the philosophic life in his political treatises. But what would the student who has, for example, already read the Metaphysics hope to learn from the Nicomachean Ethics? It seems, according to Tessitore, that: “because of our composite nature, even those capable of participating in the most sublime pleasures are not able to do so all the time; other pleasures are both attractive and necessary. Hence, even philosophers must practice continence or ethical virtue with respect to those things that draw them away from the best activity.” (72)
Again, whether this is the harsh philosophical lesson of the *Nicomachean Ethics* or not depends on whether we think that what Aristotle says in the *Rhetoric* is useful imprecision or something else.

These critical reflections notwithstanding, three reasons recommend *Reading Aristotle’s “Ethics”* as a useful companion to the new student of philosophy, even for courses at the undergraduate level. Tessitore presents the major arguments of the *Nicomachean Ethics* within a coherent, easy-to-follow five-part division of the text (Book 1, Books 2-6, Book 7, Books 8-9, and Book 10). Most of his discussion focusing on the different scholarly interpretations of Aristotle’s intention takes place in the chapter endnotes. And Tessitore provides his own translation of key passages and terms of the *Nicomachean Ethics*, which gives him the opportunity to revisit and bring out the original ambiguity perhaps intended by Aristotle.

All of this is muscle and sinew to the rhetorical bone Tessitore wants to lay bare. The notion that Aristotle’s “artful employment of rhetoric” is aimed at a dual audience of nonphilosophers—the “morally serious” (*ho spoudaios*) or “decent” (*ho epieikês*)—and potential philosophers not only “reveals an underlying consistency despite the apparent inconsistency attributed to him [Aristotle] regarding his teaching on the best way of life” (17, 20). More important, it shows how Aristotle’s rhetoric takes us back closer to the days of Socrates when the “fundamental tension between the requirements of philosophic inquiry and the necessities that govern citizenship” had not yet been obscured—even though such covering over may perhaps have come about due to Aristotle’s success in “combining sensitivity to the salutary demands of common decency with the sharp and necessarily jarring perspective characteristic of radical inquiry” (3, 8, 121). This is indeed the most important accomplishment of Tessitore’s dissection. For it is at this point that, looking back, we are ready to bite into the marrow, so to speak, and move on to, as well as to reflect upon, earlier commentaries on Plato’s and Aristotle’s pedagogical writing habits and their role in preserving the possibility of philosophy in the city.
Can the philosopher be a teacher? True philosophical speculation seems bound to lead its practitioners to places inaccessible to most people. Even if philosophy does not in fact lead to wisdom, it almost always ends up with complex concepts and language unintelligible to the common man. But what if the philosopher finds something worthy of being communicated to all? Should some knowledge not be shared, especially if it affects people’s lives in a direct way? A philosopher-teacher must not only possess such knowledge, but also have the tools to communicate it. The Maimonides who emerges from Ralph Lerner’s *Maimonides’ Empire of Light* is a philosopher possessing knowledge that, he feels, needs to be shared. The writings of Maimonides, specifically the five that are the focus of this book, represent for Lerner a project to enlighten the Jewish people in the ways of a knowledge they once possessed but have somehow lost.

The structure of the book allows the reader to explore this facet of Maimonides’ career in illuminating detail. After a brief introduction, Lerner devotes a chapter to each of four Maimonidean texts addressed “to the people”: *Epistle to Yemen, Book of Knowledge in Mishneh Torah, Treatise on Resurrection*, and *Letter on Astrology*. In them, Lerner discusses the content, style, and educational purpose of these short works. They are followed by brief discussions of Maimonides’ most important philosophical work, *The Guide of the Perplexed* (which was expressly *not* addressed to the people at large) and two texts by scholars who tried to follow in his footsteps as educators: Falaquera’s *Epistle of the Debate* and Albo’s *Book of Roots*. 
While the chapters on the popular texts show Maimonides engaged in the arduous and sometimes thankless task of teaching those who may not want to learn, the latter three illustrate his philosophy of teaching and learning as they emerge from the *Guide* (directed at the genuine pursuers of learning) and the writings of his two followers. By the formal structure of the book, Lerner encourages the reader to partake in his analyses, then test them against the sources themselves: the four short texts, along with that by Falaquera—there is nothing by Albo in this volume—are presented in their entirety in highly readable translations after Lerner’s analyses. In slightly over two hundred pages (the interpretive essays amount to less than one hundred), Lerner provides the reader with a highly detailed and fascinating picture of Maimonides as philosopher, educator, and Jewish public intellectual.

Widely recognized as the preeminent Jewish scholar of his time, Maimonides adopts the responsibilities that this mantle entails and is supremely confident in his capacity to fulfill them (5). He pursues neither glory or fame, though he is neither humble nor modest. He is, by virtue of the respect universally awarded him, perfectly situated to impart his knowledge to those who seek it and, through them, to the rest of the people. Lerner’s Maimonides is more than the Jewish sage who interprets the Law to resolve controversies. He is truly the public intellectual, the voice of learning and reason, the guide for those seeking a better life. He has the knowledge, the prominence, the respect, and the tools to make his project a reality. He is, in Lerner’s words, a “master of precise thought and lucid expression” (43), “mind-clearing” (27), and “ambitious and highly original” (28).

Through his discussion, Lerner ably outlines Maimonides’ reactions and changes of mood and technique in the face of his immense task. He is sometimes “lucid … but not without leaving a trail of ambiguous and mixed signals,” as in the *Epistle to Yemen* (15) and sometimes “immediately intelligible,” as in the *Mishneh Torah* (28). Though always patient and kind, some of his work is “framed by expressions of frustration,” particularly in the *Treatise on Resurrection* (42). Maimonides adapts his teaching technique to his intended audience with deliberate calculation, even when he would wish to do otherwise—although “repetition is distasteful” to him, “he finds himself cornered into performing a redundant piece of work” when circumstances demand it (as in the *Letter on Astrology*; 56). Yet, Lerner never faults him for showing frustration, for being ambiguous when clarity would seem more advisable, or for sometimes being “more apt to present conclusions than a proof” (46). He sees Maimonides as always writing with a clear and premedi-
tated purpose. Lerner’s Maimonides never takes a false step, never writes the wrong word, never uses the wrong tone. If his project is fraught with difficulty and setbacks, it is always the fault of his less-than-ideal audience.

While this might be an accurate understanding of most of the relationship between Maimonides and his readers, it ignores the possibility that there might have been other motives at work in the great teacher’s writings. Lerner does not shy away from pointing out that Maimonides is an elitist thinker, nor is he bothered by Maimonides’ belief that he can model his writing after his understanding of the Torah and pattern his teaching technique on that of God, the Supreme Teacher. “Maimonides,” Lerner states, “sees an exact parallel in the ‘gracious ruse’ by which God sought to transform a horde of slavish Sabians into a people fit to conquer Canaan and to form and sustain a holy congregation” (53). But the resources needed to enlighten the masses, on the one hand, and to sustain a congregation, on the other, may not always coincide. Unfortunately, Lerner does not enhance our understanding of how Maimonides addresses this conflict.

Scripture, for Maimonides, is “to be understood as bearing both a literal and a hidden meaning” (46). But why would God make his greatest gift to Israel obscure and full of hidden meaning? Because he is convinced that readers possess different levels of understanding. “The first and largest point to fix firmly in one’s mind” in the divine art of teaching, “is that what you can teach and how you can teach are limited by what your audience can bear” (32-33). Should the Torah contain only truths that were accessible to all, it would not be the source of wisdom that Judaism holds it to be. Not all students can be taught the same truths, or in the same way:

[T]he vulgar, the multitude, the simple, the ignorant, women and children, the contentious, the multitude of the sages, Rabbanites, pseudosages, beginning students, men of religion and science, men of speculation, and men of attainment among the elect. These are not, each and every one, a separate and exclusive category; some overlapping membership is not only possible but certain. At the same time, Maimonides is mindful that the abilities and disabilities of each group or subset differ. Each sect (as he is wont to say) has to be addressed according to its capability and in a manner and language to which it can relate and respond. All education, but most emphatically popular education, has to take that observation as a point of departure. (6)

Certain principles are, and should be, easily grasped by all. “Continued Jewish existence,” Lerner states, “depends upon certain shared
beliefs that have to be made clear and persuasive to literally every member of the community” (26). The Torah expresses many of them clearly—“literal” is certainly not synonymous with “false.” Other teachings, however, are more obscurely presented; and many of them are unknown to the people. Some of these, quite clearly, should be kept from the masses, for they would be used in ways that Maimonides sees as dangerous. Yet, commendable as it is in one respect, it is precisely this attitude that can betray so easily. For those who adopt it, much care in approaching Maimonidean texts is needed. Thus, for all his knowledge of his subject, Lerner’s reverential approach to the writings precludes him from identifying the more exclusivist elements in Maimonides’ thought.

These elements are most prominent in The Guide of the Perplexed, the major text that Lerner engages only partially. I would like to suggest that Maimonides’ treatment of the afterlife in the Guide contains several distinct stories, some presumably applicable to all, and some only to the truly learned few. While the Guide contains several of the same views on life after death that are outlined in the Treatise on Resurrection, the following passage reflects a quite different account of what occurs to some souls:

The result [of the strengthening of the intellect over time] is that when a perfect man is stricken with years and approaches death, this apprehension increases very powerfully, joy over this apprehension and a great love for the object of apprehension becomes stronger, until the soul is separated from the body at that moment in this state of pleasure…. The other prophets and excellent men are beneath this degree [i.e., that of Moses, Aaron and Miriam] but it holds good for all of them that the apprehension of their intellects becomes stronger at the separation, just as it is said: And thy righteousness shall go before thee; the glory of the Lord shall be at thy rear. After having reached this condition of enduring permanence, the intellect remains in one and the same state, the impediment that sometimes screened him off having been removed. And he will remain permanently in that state of intense pleasure, which does not belong to the genus of bodily pleasures, as we have explained in our compilations and others have explained before us. (Maimonides 1963, 129a-129b).

Is it possible that Maimonides envisions a completely different sort of afterlife for the intellectually perfected souls? If so, would he consider it wise to communicate this information to the community as a whole? Lerner’s account of Maimonides’ project precludes the examination of such questions. If, as I suggest, certain teachings of the faith should be
accessible only to a few, then Maimonides is more than the kind and generous teacher who changes his tone and his language simply to ease his readers into knowledge.

This point is relevant since, as Lerner views him, Maimonides is primarily concerned with the deep crises of belief that afflict the Jews of his time. Knowledge once possessed by the Jewish people has been lost—knowledge crucial for the survival of the community. Lerner detects in Maimonides anger and impatience about this, especially towards those who should know better: the Rabbis, sages, and leaders of the people. Although the Torah is open to scores of correct interpretations ("seventy faces," according to Jewish tradition), many authoritative statements about Scripture are simply untrue; and some are highly dangerous (the most notable example surely being the belief that God is corporeal, discussed at length in Maimonides’ writings because he so deeply fears its tendency to lead the people to idolatrous practices). Consequently, some beliefs currently taken to be open to interpretation and debate should be so no more.

Thus, solving the crisis that befalls the people of the Book is a delicate and extraordinarily complex endeavor. Were the inability of most to grasp the truths hidden in Scripture eliminated by providing the correct answers, Maimonides would simply set himself the task of doing so. It is because of the different degrees of understanding present among the people that those answers cannot be simply unveiled for all to see. In many cases, this would do more harm than good. The people are too enmeshed in tradition, superstition, and false opinion. While "Maimonides undertook not once but repeatedly to simplify the difficult and to clarify the obscure" (44), certain things can simply not be stated in a straightforward or perfectly clear manner. His writings therefore must explain the literal and hidden meanings of Scripture and do so sometimes by means of literal and even hidden meaning. The student of Maimonides is thus faced with the question of how to distinguish one from the other; how to discover the true purpose of Maimonidean texts to the same extent that Maimonides knew the true purpose of the Law.

Fortunately, the beginning of the path to understanding is apparent enough. Maimonides makes it clear that learning does not necessarily lead to knowledge, knowledge does not necessarily lead to wisdom, and wisdom does not necessarily lead to perfection, but that each is certainly a precondition for the next. Not all learned men are wise, as Maimonides demonstrates in his polemic against the Gaon of Baghdad in the Treatise on Resurrection. And yet there is no doubt that learning is the only road leading
to knowledge. “Study of the Law,” Lerner reminds us, “or, more generally, a life devoted to learning has a dignity and centrality in Maimonides’ account that cannot be exaggerated” (37-38). It is to Lerner’s (whose very name, most appropriately, is a reminder of Jewish belief in the primacy of study) credit that he underlines in his discussion of Maimonides two quintessential Jewish attitudes: the primacy of learning and the need to combine study with action in everyday life. His brief discussion of The Guide of the Perplexed, in keeping with his presentation of Maimonides as philosopher-teacher, centers on the teachings of the Guide regarding models “to pattern our own life after” (65). Understanding, for Maimonides, is inseparable from living a good life: “the highest human achievement and most perfect form of worship would be to aim at moderation” (67).

How, alternatively, does learning without knowledge present itself? For Lerner’s Maimonides, it does so in the refusal to understand the teachings of the Law as a complete and irreducible whole. Maimonides’ ire is never more clearly focused than towards those who use their memorized acquaintance with Scripture to advance ideas that are totally foreign to it:

Texts are not for rummaging about in, picking a fragment here, a fragment there, to support one’s own case. A statement should rather be viewed in context, the better to fathom its speaker’s intent. Only then is it safe to draw inferences from a passage. (18-19)

In the Epistle to Yemen, Maimonides excoriates Jacob ben Nathanel Fayummi and his “bookmen” for “suspend[ing] their critical faculties when they see something inscribed in a book” (16). The goal of teaching how to read and think about Scripture is most necessary “given the depth of ignorance among those boastful would-be sages of Israel” (43). For Maimonides critical thinking means not only distinguishing fact from opinion, but the literal from the hidden. Only when one has understood the totality of God’s message, can one manipulate it for specific purposes. Lerner reminds us that Maimonides’ Mishneh Torah is one of the most thorough acts of manipulation of the Law ever attempted by a Jewish scholar. In it “[t]he commandments of the Written Law are decontextualized with a view to his recontextualizing them” (32). Maimonides the sage once more undertakes a task that he would in no uncertain terms keep almost anyone else from attempting.

The paradox, one Lerner chooses not to engage fully, is that the writings of Maimonides must necessarily leave the reader (of any level) unsure of what should be taken from the text. If he is the only one who can fulfill his educational project, if his wisdom and understanding are unequaled,
then the suspicion of incomplete or incorrect understanding of his teachings can never completely disappear. To be sure, some of these teachings seem clear and straightforward, but so much seems available just below the surface that the “unqualified perplexed” (14) would pursue more truth and eventually extract the wrong messages—the wrong teachings. Why, if Maimonides wishes the Epistle to Yemen “to be read or heard by all the people, including women and children” (14) would he pepper the text with “ambiguous and mixed signals” (15)? A careful student should consider the possibility that Maimonides sometimes overestimates his own ability to make the different levels of his thought apparent only to those he wishes. Lerner does not openly suggest that the writings of Maimonides may increase, rather than eliminate, our perplexity. Yet, by leaving the original texts in our hands, he tacitly acknowledges that his own extensive acquaintance with the sage may still not be sufficient to understand his intentions fully.

In sum, Maimonides’ Empire of Light presents a clear and erudite reading of an extraordinary pedagogical project. The four chapters on the “popular” texts are full of illuminating insights not only on the meaning of Maimonides’ teachings, but also on the emotional investment he poured into his writing. It is, however, more difficult to see what the short chapter on The Guide of the Perplexed adds to our understanding of Maimonides-as-teacher. Lerner provides little on the relationships between the different texts beyond what Maimonides himself points out. Since the text of the Guide could not have possibly been included in this volume, one is left wondering why a work specifically directed at the very few “qualified perplexed” (14) deserves mention in a book about the effort to sustain the whole Jewish congregation scattered across the world. Moreover, the short discussions on Falaquera and Albo—who, for patently obvious reasons do not enjoy the respect Lerner reserves for Maimonides—do little to advance our understanding of how that effort fared after Maimonides’ death. What happened to “popular enlightenment in an age of belief” (as the book’s subtitle promises) thanks to Maimonides’ effort? As much as we learn from this volume, the answer to that question must lie elsewhere.

References

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